4. The Case of the United Kingdom

4.1. The UK Policy Process

4.1.1. Structure and Institutions

Formal policy-making in the form of changing of legislation sets new rules and regulations in the given area of concern. An Act of Parliament, or an approved Bill, creates a new law or changes an existing law and applies to the UK as a whole or to specific areas of the country.

Broadly speaking, there are two types of legislations in the UK: primary and secondary legislation. Primary legislations are proposed in the form of Bills that may or may not become Acts of Parliament. Secondary legislations - also known as subordinate legislations or delegated legislations - are made by Ministers under powers granted to them in Acts of Parliament. By secondary legislation, an Act of Parliament does not need to be changed every time a detail needs to be added or eliminated. Secondary legislation is comprised of regulations, orders in council and other orders, schemes, codes, or practice as well as rules, such as those pertaining to immigration. The majority of the time, this process is completed by means of a ‘Statutory Instrument’ (a form of secondary or delegated legislation made by executive authorities).

Ministers have the power to make more detailed orders, rules or regulations by means of such Statutory Instruments (SIs). Legal changes can vary from small, technical changes, affecting dates on which different provisions of an Act will come into force, to much more fundamental changes of an Act. Numerous Acts provide only a framework, relying on secondary legislation to fine-tune and specify the Act. For these reasons, SIs are just as much a part of the Law as Acts of Parliament are.

Bills, or the petitions used to propose future acts, can be found in several, varying types. The most fundamental differentiation takes place between Public and Private Bills. The former, as their names implies, are introduced by Government ministers, affect the public as a whole and constitute the majority of Bills. Private Members’ Bills also concern the public, however, these Bills are introduced by Members of Parliament (MPs) who are not members of the Government. Private Members’ Bills should not be confused with Private Bills, since Private Bills are proposals for legislation, which are usually not promoted by MPs, but by outside persons or lobbies, affecting the powers of particular societal bodies such as companies as well as rights of individuals or local authorities. The group of Bills that lie between are known as Hybrid Bills. Thus, Hybrid Bills affect both the interests of the public in general and of certain individuals or organisations. Likewise, the progress of a Hybrid Bill through Parliament includes elements of both the Public Bill and Private Bill procedures (more details as to the procedures of the Bill
will be elaborated below). Such Bills may be introduced by members of the Government or by a backbencher; however, these Bills are rarely introduced.

The major legislative power in the United Kingdom is situated in the two chambers of Parliament: the lower house, or the House of Commons and the upper house, or the House of Lords. The elected House of Commons cannot produce legislation on its own: only by acting together can the two Houses, in combination with Her Majesty, create new laws.

The House of Commons consists of approximately 646 MPs, representing each constituency within the United Kingdom. Members are elected by the first-past-the-post system of election, holding office until Parliament is dissolved, up to a maximum of five years. Each member is elected by, and represents, an electoral district, which is called a constituency.

Until 1999, the House of Lords consisted mainly of Lords Spiritual and Lords Temporal. The former were MPs who sit by virtue of their ecclesiastical offices, such as the Church of England's archbishops, diocesan bishops, abbots, and priors. Lords Temporal were hereditary peers who ranked variously as dukes, marquesses, earls, viscounts, and barons. The Crown created such hereditary dignities.

The House of Lords (having approximately 730 members) underwent major reforms in the past decade and it is important to note that the selected time period of this study involves the 'unreformed' House of Lords. One major reform took place by the House of Lords Act 1999 under which all, but 92, hereditary peers from the House were expelled. The House of Lords became a predominantly appointed chamber.

Both Houses use Committees for a variety of purposes; the most common being for the review of Bills to make amendments. In the sittings of the Committee’s, evidence from officials and experts outside of Parliament will be considered. Broadly speaking, there are several kinds of Committees, including Standing Committees, which have been renamed to 'General Committees' in 2006. Standing Committees on Bills are called 'Public Bill Committees'. These Committees are unique to the Commons, whereas, for instance, Joint Committees are Committees consisting of MPs and Lords. Select Committees exist in both Houses and examine areas ranging from the work of Government Departments (scrutinising functions of Government activities) to social or environmental affairs. A detailed report follows such examinations. Special Committees are Grand Committees, which consider matters relating to Scotland, Wales and Northern Ireland in which any member of the House can participate.

The Committee most commonly used for the consideration of Bills in the House of Lords, is the Committee of the Whole House including all members of the House. Different procedures apply to this
Committee as members are allowed to make more than one speech each on a motion (a proposal or suggestion moved by a member).

4.1.2. Processes and Procedures - Primary, Secondary Legislation

In short, legislative changes in form of draft Bills have to go through different stages in the House of Lords and the House of Commons, the first of which can only delay or amend a Bill, but not strike it down. A majority in the Commons can pass a Bill. At the end of several procedural stages, the Queen is required to sign the Bill in a Royal Assent.

In more detail, the processes can be subdivided into:

-Drafting stage
-First reading
-Secondary reading
-Committee Stage
-Reporting Stage
-Third reading
-Royal ascent

Bills are drafted by a team of lawyers in the Parliamentary Counsel Office, who have been given instructions regarding the Bill by the concerned Government Department, which is a part of the Cabinet Office. There may have been a Consultative Paper (having a green-coloured cover) or Statement of Policy (having a white-coloured cover), on its subject before the Bill is introduced. Such papers are not mandatory.

In the first reading a copy of the Bill is placed on the Table. In this stage the House’s order to print the Bill may be given to the Stationery Office. At times, Bills are accompanied by explanatory notes.

After the printing of the Bill, it proceeds to its first substantive stage, the Second Reading. A programme of motions (suggestions and proposals by MPs) will set out a timetable for the conclusion of proceedings on a Bill, which will be voted on after the second reading debate. In this debate the House of Commons considers the main issues of the Bill. At this stage, the opposition could object to a Bill by tabling a ‘reasoned amendment’, which is not an amendment to the Bill itself but it questions if “The Bill be now read a second time”.

In the following Committee stage, the Bill will be moved to a Standing Committee, a Select or a ‘Committee of the Whole House’. Each Clause and schedule of the Bill will be examined and discussed.
Likewise, completely new Clauses and new schedules may be added to the Bill. A Public Bill Committee is made up by 16 to 50 nominated members, with membership reflecting the party composition of the House. At least one Minister from the concerned Government Department will be on the Committee. A new Public Bill Committee will be appointed for each Bill and it will be dissolved as soon as it has reported to the House. The ‘Committees of the whole House’ are for Bills that are of constitutional relevance, while Select Committees are composed when case evidence may be taken into account. Occasionally, a Bill may be investigated by a so-called ‘Special Standing Committee’ in order to outline issues of concern before it is submitted to the Standing Committee stage. All amendments by such Committees will be added to the Bill and a reprint takes place before the Bill undergoes the ‘Report Stage’.

This stage provides an opportunity for the MPs who were not involved in the Committee stage in order to amend the Bill. The Bill is considered as a whole and the Government could also, considering the issues raised by the Committee, bring forward additive amendments. The House may reject or change amendments made by the Public Bill Committee. In case a Committee of the whole House has not amended the Bill, it progresses immediately to Third Reading.

The third and final stage taken by a Bill, gives the House a final opportunity to view the document, however, amendments may no longer be made at this point. Once the Bill has passed its Third Reading in the House of Commons, the Bill will be sent to the House of Lords. The legislative process is broadly similar to that in the House of Commons. The Bill needs to once again pass through all necessary stages.

If the House of Lords has amended the Bill, such amendments will be printed and considered by the House of Commons. The Commons then has the ability to agree or disagree with the proposed amendments submitted by the House of Lords. In case the Commons agree to the proposed amendments, the Bill must once more pass through both the House of Commons and the House of Lords before moving to the next stage. In case the Commons disagree with the Lords amendments, the Commons will send the reasons for their non-approval and the Lords will further take these into consideration. In other words, a Bill may travel between the two Houses several times, before a final acceptance, by both Houses, is made. On the other hand, a deadlock occurs when both Houses insist upon their position without suggesting any kind of alternative for consensus. In this case, the Bill may be passed in the following session of Parliament without the consent of the Lords. Therefore, the House of Lords may delay a Bill which has been put forward by the Commons, however, the Lords are not empowered to
block a Bill or push through its amendments. At the end of the process, the House of Commons and the House of Lords must agree to the text of the Bill, which will then be submitted for Royal Assent.

After the Bill became Act of Parliament, the legal office of the Government Department that is concerned with the new Act of Parliament usually drafts secondary legislation, which fine-tunes the primary legislation. Frequently, consultations with interested bodies and parties are accomplished during this stage of drafting secondary legislation. The number of SIs varies but about 3,500 are approximately produced each year, which may be only consist of one page of length or may be hundreds of pages.

Such SIs are not necessarily subject to parliamentary procedure, which depends on the Act that the SIs will complement. Hence some of them simply become law on the date stated in them. But many others are subject to parliamentary control and follow the Statutory Instruments Act 1946. It is laid before Parliament either in draft form or after the Statutory Instruments has been readily drafted or ‘made’.

There are two different kinds of procedures. First, Statutory Instruments could be subject to the negative resolution procedure, which means a SI may become law on the date stated unless there is an objection from the House in the form of a motion calling for its annulment within a certain time; the given period usually consists of 40 days. In the House of Commons, any Member may put down a motion, subject to this negative procedure, known as a ‘prayer’. Second, instruments are subject to the affirmative resolution procedure and can only become law when both Houses have given their consent. Most commonly, if there is an affirmative procedure, instruments are laid in the form of a draft ‘Order’ and such orders can only be made with parliamentary approval, with responsibility lying upon the Minister in question to move the motion for approval.

Parliamentary debates on SIs take place rather rarely, but do occur more and more frequently. Debates to approve or annul SIs are held on the floor of the House or in Delegated Legislation Committees. Such Committees are commonly composed of 17 members, however, all Members are invited to attend or speak, but only the original members of the Committee have the right to vote on the SI.

4.1.3. Style and Traditions of Immigration Policy-Making

Traditionally, the executive power has a special stance with regards to the division of powers when taking into account the competence of the Home Office of being able to introduce secondary legislation, which do not need to go through Parliament. Amendment of legislation may only occur when a presentation of

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29 This measure underlies certain criteria established by the Parliament Act 1911 and as amended by the Parliament Act 1949. These criteria are fulfilled when (1) the Bill has been taken to the House of Lords at least one month before the end of the session, (2) it takes more than a year between the Second Reading of the first session and the second session in the Commons, (3) the Bill in the second session is identical to the Bill in the first session and it only includes amendments which are necessary to take account of the passage of time.
secondary legislation before Parliament has been specifically requested (as described above). It functions as a post-statutory ‘fine-tuning’ of British immigration policy, while in most cases lacking parliamentary scrutiny. This led some scholars such as Hammar to refer to the formation and production process of immigration legislation in the UK as being a

“product of a highly centralized and elitist political system. Policy is determined by the executive, legislated and legitimized by the parliament, and administered by the bureaucracy or local authorities. The Civil Service plays an important role in the formulation of policy, especially in advising the key ministers what policy options are practicable” (1985: 120).

However over the years as described by Dorey (2005), the role of the Civil Service has changed. It seemed to be less engaged with policy initiation and advisory functions and has rather transformed into an agency providing management and services. An increasing amount of civil servants involved with immigration control moved ‘practicability’ into the first rows of priorities of policy settings.

The Department predominantly involved in ‘migration management’ is the Home Office, especially when it comes to the control of irregular migration. Involvement and interaction among other Departments takes place in the Foreign Commonwealth Office, the Department for International Development (DFID), the Department for Education and Skills (DfES), the Department of Work and Pensions, or in the case of low or skilled immigration matters, the Department of Agriculture and Rural Development, the Ministry of Trade and Industry and the Treasury may be involved.

However, when it comes to the actual agenda setting and formulating of a Bill, the Home Office is the department with the most powerful partners, and often the only department involved. Depending on the content and purpose of the Bill, other departments such as those listed above, are well integrated in the process of formulating a Bill for parliamentary perusal.


4.2.1. Socio-Historical Background 1973 - 1983

In the UK, post-imperial migration policies were designed to maintain a strong influence in terms of political and economic issues within its colonies. Over decades, the UK was regarded as a country of emigration, i.e. emigration exceeded immigration, with few periods of exceptions including the time during the course of the Second World War as well as from the early 1950s to the early 1960s, when an increase of Asian and South Caribbean immigration reversed this pattern. It may be stated that migration recording systems such as the International Passenger Survey (IPS) starting in 1961, were often criticised.
or as Holmes stated, they did “not always possess a copper-bottomed quality” (Holmes, 1982: 8). Nevertheless according to these numbers the United Kingdom has transformed from 1983 onwards into a country of positive net immigration, i.e. immigration exceeded emigration.

In 1969, the Labour administration initiated a Committee on Immigration Appeals headed by Sir Roy Wilson, which reported a need for further, fair immigration restrictions, which led to the Immigration Appeal Act 1969. This marked the first shift of a wider political process that was continued by the Conservative Government promising ‘no further large-scale permanent immigration’, which resulted in the Immigration Act 1971.

The UK enjoyed ‘full employment’ from 1940, which lasted for almost three decades. Such full employment was an essential ingredient for the development of a British welfare system or as some historians argue, the absence of unemployment had a more important role in the fight against poverty than the welfare system as such (Lewis and Townsend, 1989). In 1973, the oil crisis is often marked as the crucial event, ending post-war full employment and setting the stage for the beginnings of an economic crisis. Between 1971 and 1974, the balance of the current account deteriorated dramatically, imports of manufactured goods, like electronics from Japan, soared into the market. Furthermore, 25 per cent deterioration in the UK’s terms of trade, as well as currency pressures against the Sterling were additionally influential factors. At an early stage, labour market concerns became an area of constant concern, with unemployment rising to one million in 1972, a previously unthinkable level. An atmosphere of economic and financial crisis, growing pressures on state finance, and a disenfranchised welfare state resulted in the ‘winter of discontent’, sealing the future of the Callaghan Government who faced a ‘No Confidence’ motion on the 23 March, 1977.

The existence of competitive industrial powers gave rise to the end of the UK’s unchallenged superiority at manufacturing and exporting which it enjoyed through its status as the only industrialised nation. The Empire and the costly involvement in two World Wars bankrupted the UK (Rubinstein, 1993).

At the same time, the public awareness of immigration evolved to a more popular issue, while the press reacted with commentaries that there will be “no end to immigrants from the New Commonwealth and Pakistan”.

The Labour Administrations between 1974-1979 followed the principle of ‘good community relations’ and fostered immigration controls, however, the Conservative Governments of 1979-1997 took such immigration controls to a further stage as demonstrated below.

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In 1979 Margaret Thatcher, who aimed at a robust free market and anti-welfare agenda, rolling back the state through enhancement and privatisation, was elected into Government. Private bodies instead of state bodies subject to so-called market forces were meant to increase competition and the creative energy of individuals following the Thatcherism godfathers such as Milton Friedman and Friedrich Hayek. Former ‘Victorian values’ such as those standing for hard-work, thrift, individualism and moral correctness were proclaimed. Among those lines, law and order played a crucial role in this new political agenda. By 1980, the new Thatcher Government caused “the biggest slump since 1929-1930” (Gilmour and Garnett, 1997: 312), and in his Budget speech, Sir Geoffrey Howe emphasised that in “the last few years the hard facts of our relative decline have become increasingly plain, and the threat of absolute decline has gradually become very real” (Howe, 1994: 135). Thatcher promised to stand by her policies of re-industrialisation and revitalisation of values initiating a ‘one nation’ campaign which, through the introduction of the British Nationality Act 1981, attempted to encompass the legislative sector.

In the early 1980s, right wing extremist groups and sections of the Conservative Party demanded higher immigration controls and repatriation programs. Warnings made by Enoch Powell in 1968/69 influenced the reworking and revising of the issue of the ‘enemy within’. The Thatcher government geared its welfare policies towards an unprecedented neo-liberal approach which had a substantial effect on communities of ethnic minorities and eventually led to public outrage. A series of so-called riots emerged. These occurred among other places in Britain in Brixton, Moss-Side and Toxteth in 1981 and were followed by a second wave from 1983 until 1985. As a symbol for ideological discrepancies between the social groups living in these urban areas and the state as such, substantial street battles between the police and so-called rioters took place.

Likewise, societal insecurities stemmed from a sustained campaign of violence by the Irish Republican Army (IRA). These mounted with a terrorist attack resulting in the deaths of 21 people in explosions at two pubs in Birmingham in November 1974. The ‘Prevention of Terrorism Bill’ was introduced and enacted within 18 hours, and made the IRA illegal. There were growing demands for the introduction of the death penalty, which were however vigorously rejected by the Home Secretary Roy Jenkins (Jenkins, 1991). Nevertheless, the IRA killed another ten people in 1975 and injured around 1,000 people in the period form 1972-1975. In 1982, IRA bombs detonated in Hyde and Regents Parks in London. In July 1983, the home of Gerry Fitt, a former SDLP MP (Social Democratic and Labour Party, being one of the two major nationalist parties in Northern Ireland), was attacked. On 12 October 1984, an IRA bomb went off at the Conservative Party annual conference, which was held in the Grand Hotel in Brighton. Five people died and 31 were injured, including MPs.
On 2 April 1982, the Thatcher Government learned of the Argentine attack upon the Falkland Islands, one of the UK’s last remaining outposts of the former Empire. Since the Islands had been under continuous British possession, the majority of the 2,000 inhabitants were of British origin. Historically, there had been negotiations between the UK and the Argentine Government since the 1960s regarding future rights over the territories. The UN and the EC condemned the Argentine invasion. The US feared a distortion of their business relationship with Argentina and therefore urged the UK to agree to a compromise with the Argentine Government. A military operation seemed extremely difficult and risky, however, on the 5 April 1982, a British carrier group made its way to the Falkland Islands. On the 14 June, the Argentine troops surrendered. However, this military action was seen as controversial since there were no direct benefits as such for the UK, furthermore, the UK lost 255 lives and almost 800 remained wounded. However, this action had ideological and political reasons. In terms of domestic politics, the Thatcher Government gained its lost popularity back over night by this military operation and kept this renewed popularity in 1982 and 1983, although there was continuing high unemployment.

4.2.2. Orientation Phase 1973 - 1974

The Immigration Act 1971 distinguished between those categories of persons who are subject to immigration control and those who were not, i.e. between people who have or have not the ‘right to abode’. It constituted the basis of ‘illegal entry’ for more than 20 years until the corresponding regulations were amended by the Asylum and Immigration Act 1996. Section 33 (1) defines an “illegal entrant” as a person 1) unlawfully entering or seeking to enter in breach of a deportation order, or of the immigration laws, 2) entering or seeking to enter by means which include deception by another person. In addition, Section 24 created the offence of ‘illegal entry’ and other generic offences, while section 25 made it an offence to assist illegal entry and to harbour ‘illegal entrants’. Section 26 provided that those who fail or refuse to comply with certain administrative directions under the Act were liable to prosecution.

However, the formation of the problematieque of controlling immigration and especially irregular immigration into the UK was mainly taking place in the debates of the two Houses of Parliament from late 1972 to mid 1974. First, the debate on a set of immigration policies concerning four new Statements of Immigration Rules (No. 79, 80, 81, 82) published on the 25 January 1973, set foundational parameters for the future discursive setting of immigration control. Second, and more specifically, a proposed amendment of the Immigration Act 1971 initiated to change the retro-perspective element concerning the regulation of illegal immigration (i.e. to denote a person as an ‘illegal entrant’, although this offence was committed in the past), was published on 5 June 1973. This amendment introduced by Lord Avebury

31 In both cases (Germany and the UK), the terms ‘illegal employment’, ‘illegal entry’ and also ‘illegal (im)migration’ will be used when referring directly to the legal text and the wording in the primary sources. Using the term ‘irregular’ would be simply distracting and would distort the textual authenticity. However, the term ‘illegal’ migrant/entrant will be still kept in inverted commas due to ethical reasons (elaborated in Chapter 2).
aimed to address the legal complications that were faced by executive and judicial administrations as illustrated below by the *Azam* Case.

### 4.2.3. Immigration Rules No. 79-82

The set of the so-called ‘Statement of Immigration Rules for Control of Entry’ (SIRCE) (No. 79, 80, 81, 82) distinguished between several new categories of immigrants to which different rules of control applied. These were Commonwealth citizens, EEC citizens and other Non-Commonwealth Nationals.

The SIRCE Nos. 79 and 80 addressed Commonwealth citizens, which still did “not need leave to enter if she or he has the right to abode in the United Kingdom”\(^{32}\), but Commonwealth citizens needed a duly issued “entry clearance”\(^{33}\) that satisfied the Immigration Officer. Furthermore, SIRCE No. 80 verified leave to enter and leave to remain. This specified time of remaining, which could also limit the conditions of employment or occupation, constrained the entry conditions of Commonwealth citizens. Significantly, it became an offence to remain beyond the time limit or to fail to comply with such condition. In other words the act of ‘overstaying’ became ‘illegal’ and deportation became “the proper course”\(^{34}\) when the person failed to comply with this condition.

EEC citizens and other Non-EEC Nationals were required to produce a passport (or ID Card) and a so-called Visitor’s Card and the person could be “refused the leave to enter on that ground alone”\(^{35}\). Entry Clearance could be refused if the Immigration Officer was not satisfied with the ‘non-bogus’ representation of the entry documentation\(^{36}\). Persons overstaying the authorised time, or having entered the UK unlawfully, would be, after examination of the case, removed from the UK. In addition, foreign nationals were required to register with the police\(^{37}\).

The opposition forwarded the motion and brought the House together to disapprove the Rules No. 79-82 on the 25 January 1973. Foundational frame mobilisations can be extracted which refer to contradictory foci of selecting and controlling certain categories of people.

From the beginning, one could find a [EEC] frame composite, which supported the new SIRCE and their categories of immigrants. The mobilisation of the [EEC] composite tried to diverge from the new restrictive categorisation of immigrants from the Commonwealth by demarcating the UK from the EEC and underlining the new categorisation of immigrants from the EEC. Actors such as Shore MP\(^{38}\)

\(^{32}\) SIRCE, No. 79, para. 4.
\(^{33}\) Ibid., para. 12.
\(^{34}\) SIRCE, No. 80, para. 42.
\(^{35}\) SIRCE, No. 81, para. 4.
\(^{36}\) Ibid., para. 10.
\(^{37}\) Ibid., para. 56, 57; SIRCE, No. 82, para. 29.
\(^{38}\) Archival documents only refer to ’Member of Parliaments’ (MPs) when they recorded in the parliament, i.e. in the House of Commons. In Committee the same persons are not referred to as MPs. Members of the House of Lords are
belonging to a group of actors supporting this frame composite referred to “our county” and “Europe”\textsuperscript{39} and moved on and claimed “stronger ties” with “the old and the new Commonwealth”\textsuperscript{40}. He fostered his argument and compared the British people and the people of the old Commonwealth by pointing to “their language, their institutions, their customs, their loyalties and even the acceptance of our Monarch as their Sovereign”\textsuperscript{41}.

Another group of actors that opposed the SIRCE was mostly concerned with the new categorisation of immigrants from the Commonwealth. Lestor MP forwarded the frame composite \textit{[equality]}, since only the old Commonwealth and EEC nationals were allowed to enter the UK as workers. In agreement, Lestor MP, Roxburgh MP, Selkirk MP and Peebles MP referred to the “thought that all immigration was to come under one heading – that everyone was to be treated the same”\textsuperscript{42}. However, these new set of immigration rules created at least three categories - some MPs such as Williams MP singled out another five categories of Commonwealth immigrants alone\textsuperscript{43} - that were meant to be treated differently. \textit{[Equality]} was extended by the frame element \textit{[discrimination]}. So one could find:

\begin{itemize}
  \item \textit{[equality] discrimination}
\end{itemize}

For instance, Lestor MP, who argued that the Commonwealth Immigration Act 1962 biased the immigration debate over years and made it possible to open the door for mostly white people and “close it firmly to large numbers of people who may have the right to come here but are distinguishable by colour”\textsuperscript{44}. She mobilised this further by the issue that such legislation would lead to a “detriment of race relations”\textsuperscript{45}. In agreement, Powell MP tried to draw the House’s attention to the fact that Indians and Pakistanis fought side by side with the British and pointed out an unacceptable distinction and inappropriate exclusion of these citizens. In the view of Davis MP, the “rules are far too rigid”\textsuperscript{46} pointing out the appeals procedure, which “does not accord with the principles of natural justice” or which would stand for “infringements of the rules of basic justice”\textsuperscript{47}.

The House disapproved the motion by the opposition and voted for adoption of these rules and therefore all of them got introduced. In due course, the combined frame elements of \textit{[equality]} and \textit{[discrimination]} as well as the \textit{[EEC]} composite of an arising frame formation became more evident.

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\textsuperscript{39} Hansard, House of Commons, 21 February 1973, col. 580.
\textsuperscript{40} Ibid., col. 586.
\textsuperscript{41} Ibid., col. 580.
\textsuperscript{42} Ibid., col. 607.
\textsuperscript{43} Ibid.
\textsuperscript{44} Ibid., col. 609.
\textsuperscript{45} Ibid.
\textsuperscript{46} Ibid., col. 629.
\textsuperscript{47} Ibid., col. 630.
4.2.4. The *Azam Case*\(^{48}\) and the Immigration (Amendment) Bill [H.L.]\(^{49}\)

Mr. Mohammed Azam entered the UK in January 1970 in contravention of section 4A of the Commonwealth Immigrants Act 1962 (as amended by Commonwealth Immigrants Act 1962 in section 3). He was arrested on 25 January 1973. During his stay he worked at different places in the UK, with a national insurance card. Since the Immigration Act came into force on the 1 January 1973, which made ‘illegal migrants’ liable to deportation, it is questionable whether or not Mr. Azam was liable to be removed from the UK as he entered the UK “illegally” before the law became effective. Mr. Azam appealed against this removal.

The Law Lords were challenged to interpret the current law and to judge whether or not these cases could be called ‘illegal migration’. In this regard, two issues were of special concern: 1) the retroactivity of the Immigration Act 1971, 2) “Illegality” (via illegal entry) that “dropped away” by reason of the expiry of the time limit for prosecution\(^{50}\), i.e. when the immigrant has already ‘settled’ in the UK, since by virtue of s I (2) of the Act, a person was treated as having indefinite leave to remain in the UK if he/she was settled.

Lord Wilberforce argued that, for instance, Mr. Azam was an ‘illegal entrant since Parliament can give legislation retroactive effect and there is no doubt that it has so done here. The definition of ‘illegal entrant’ (s. 33(I)) is expressed to include a person who ‘has entered’ the UK in breach of the immigration laws\(^{51}\). Furthermore, the critical word “settle” was explained by Lord Wilberforce by referring to Section 33 (I) that “‘settled’ shall be construed in accordance with s 2 (3) (d)”, which stated “reference to a person being settled in the United Kingdom […] are references to his being ordinary residence there”\(^{52}\).

He commented that Mr. Azam was “not guilty of any continuing offence”, since the “offences against s 4A (…) had expired: the illegality had ‘dropped away’; (he was) no longer in breach of the immigration law. Hence Mr. Azam could no longer be prosecuted, however, he was continuing to be in breach of the immigration law and thus could not be treated as having been given indefinite leave to remain in the UK. Nevertheless, the appeal was dismissed and Mr. Azam had henceforth been lawfully detained.

\(^{48}\) *Azam v Secretary of the State for the Home Department* [1974] AC 18; see also supplementary cases of *Kkera* and *Sidhu* vs. The Secretary of State for the Home Department and Others.

\(^{49}\) [H.L.] indicates that the Bill was initiated in the House of Lords.

\(^{50}\) Law Reports, Appeal Cases, House of Lords and Judicial Committee of the Privy Council and Peerage Cases, 1974, p. 19

\(^{51}\) HL, 2 All ER [1973], p. 769.

\(^{52}\) Ibid., p. 771.
These cases determined future cases of legal appeals, and regarding political discourse, it demonstrated which crucial stance ‘border control’ became regarding legal as well as administrative practices. The emphasis of combating and controlling irregular migration were directed towards external borders. It clearly founded the tradition of ‘external’ control of borders, which was also found in mobilisation processes of various frames in the ongoing and future policy discourses of actors.

The Immigration Act 1971 (Amendment) Bill [H.L.] initiated by Lord Avebury on the 29 June 1973, was designed to overcome the dilemma that occurred in cases such as the Azam case. It would not allow a retrospective penal legislation of the Immigration Act 1971, which would make all ‘illegal entrants’ who arrived between 9 March 1968 and January 1973 immune from persecution and not liable to deportation as the Immigration Act 1971 prescribed. Individual cases of persons who resided longer than six months would be made a “matter of discretion” under the competence of the Home Secretary. In other words, the amendment would include contested policy aims such as the indirect amnesty of this marginal group of people. Additionally, an Immigration Appeal Tribunal was demanded by this coalition group that should decide on individual cases of persons who resided longer than six months in the UK and were apprehended by the police, allowing these persons to put their case - instead of the Home Secretary’s decision of discretion.

In the House of Lords on the 12 June 1973, the propositions made by the Law Lords, as elaborated above, were endorsed by several actors, and especially by the Viscount Colville of Culross, by referring multiple times to the position that a different decision would have been “unfair to those who have already entered legally or [were] waiting to do so.” Via unfairness, he mobilised the composite of [equality] from a different angle, since through such unfair treatment towards ‘legal immigrants’, the principle of equality was not fulfilled, and which at the time distorted relations within the immigrant community hinting on the simultaneous distortion of the host community.

The debate on the Bill was laid before the House of Commons on the 26 June 1973, which illustrated the importance of controlling the external border in order to protect the ‘internal’ or British community.

A frame formation supporting the Bill and its aims, made use of the following composite link. As such, one could find:

[discrimination] equality

53 Azam v Secretary of the State for the Home Department [1974] AC 18; Kkera and Sidhu vs. The Secretary of State for the Home Department and Others.
54 Hansard, House of Lords, 12 June 1973, col. 553.
Supporters of this frame formation such as Williams MP admitted, as the Governmental position emphasised, that “illegal migration can have a serious effect on the trust between the host community and the immigrant community”. However, she mobilised [community relations] by extending this frame composite with the issue of race relations, thus [community relations] race relations. She quoted the Chairman of the Liverpool Community Relation Council, who referred to “serious repercussions on the already delicately balanced state of race relations in this country”, leading to insecurity (that is) already felt by minority groups. Williams MP fostered this extension by underling the effect of such Governmental intentions that created a “profound rift between immigrant community and the host community”, which she illustrated by the fact that “the Indian Workers Association has withdrawn from all Government bodies concerned with race relations, (while) others threatened to do so.” Thus, she demanded an “amnesty of those who have been here for more than six months” and who were therefore not subject to prosecution between 1968 and 1973.

The claim of an Immigration Appeal Tribunal was mobilised by the frame composite of [equality], however on the basis of another extension: civil rights. Williams MP backed up the argumentation forwarded by Atkinson MP referring to “dreadful unfairness”, and depicted immigrants as “contributors” to the British society. Williams MP emphasised the erosion of civil rights if the proposed (Amendment) Bill would not be introduced. She argued that the “constitutional and civil rights of these people have been adequately protected by us” and should also be the case in future. Atkinson MP extended the frame of [equality] civil rights furthermore by addressing the House’s political morality and demanded to consider the following arguments. He foresaw a “dreadful unfairness” that would “inflict upon decent people, people who have been accepted for some years as part of the community, who have paid their taxes, have paid for their insurance stamps, have done a good job and have contributed to the wealth of the country by working jolly hard”. He claimed these people as contributors and part of the community and therefore they should enjoy full access to civil rights. This he widened to the overall “unfairness” of the Government’s immigration policy strategy in the view of an “open door for white

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56 Ibid., col. 1406, 1407.
57 Ibid., col. 1410.
58 Ibid., col. 1412.
59 Ibid., col. 1438.
60 Ibid.
61 Ibid., col. 1413.
62 Ibid.
63 see also Immigration Rules No. 79, 80, 81, 82, as elaborated above.
people from Europe, but the door is closed to Commonwealth people applying for A vouchers\textsuperscript{64}. Finally, this frame formation resulted in:

[discrimination] equality] civil rights]

+

[community relations] race relations]

The Home Secretary, Carr MP, mobilised the element of the oppositional frame [community relations] into a very different direction. He detected his main task as “Her Majesty’s Government’s determination to halt illegal migration”\textsuperscript{65}. The presented amendment was therefore not seen as in the interests of community relations, which should be safeguarded considering “the tremendous achievement of the British people in accepting so many thanks to the extent of their natural tolerance”\textsuperscript{66}.

He argued further that this Bill would not serve the British people in ensuring “strictly controlled” immigration facing the conditions of this “heavily overpopulated country”\textsuperscript{67}. The dedication of individual cases, which was a matter of discretion, would be addressed with “real compassion” in the sake of the “interests of our community”\textsuperscript{68}. A possible amnesty was unacceptable in the eyes of Carr MP who justified this by quoting Lord Denning’s judgement at the Court of Appeal: “an amnesty would be an encouragement for others to follow their example: and that simply cannot be permitted.”\textsuperscript{69} In other words, the Home Secretary mobilised [community relations] by forwarding the element [deterrence] and thus [community relations] deterrence].

In agreement, Stokes MP fostered the [deterrence] element, since “special terms for illegal immigration is just an insult to injury to ordinary English people”\textsuperscript{70}. He signified the demands of the Bill as “further burdens on our own people”, which was underlined once more by the Under-Secretary of the State for the Home Department, Lane MP, who claimed “to keep in mind our obligations to the whole community”\textsuperscript{71}.

Nevertheless, a broad consensus between the oppositional groups could be found when it came to the issue of human smuggling and trafficking. At several points during this debate this phenomenon was condemned by both sides, saying that this phenomenon needed to be prosecuted vigorously.

\textsuperscript{64} Ibid., col. 1438, 1439.
\textsuperscript{65} Ibid., col. 1413.
\textsuperscript{66} Ibid., col. 1414, 1415.
\textsuperscript{67} Ibid., col. 1415.
\textsuperscript{68} Ibid., col. 1422.
\textsuperscript{69} Ibid., col. 1420.
\textsuperscript{70} Ibid., col. 1447.
\textsuperscript{71} Ibid., col. 1460.
In the end, the House has voted at this stage of the process and was divided: 290 (Ayes) to 251 (Noes). The motion of the second reading took place in the Upper House on the 28 January 1974 where the original intention of the Bill by Lord Avebury, the abolishment of retroactivity, became the focus of the discussion.

Almost all participants of the debate in the House supported the amendment of the Immigration Bill. Lord Greenwood of Rossendale pointed out the inappropriate legal situation of retroactivity under which immigrants would be removed and underlined herewith [civil rights]. He referred to the General Secretary of “Liberation” who pointed out that “the enforcement of these retroperspective aspects of the 1971 Act has resulted in the entire immigrant and black community living in fear, which was triggered by the Government’s requirement for immigrants “to present (their) passports to prove that they are ‘legally’ here”. He continued and designated this situation as “utterly intolerable”. Furthermore he extended [civil rights] by adding the element of [moral obligation], since “we have relieve[d] our whole immigrant population of a load of fear” rejecting the “traditional belief that all men are equal in the eyes of the law”. Lord Soper fortified this frame extension of moral obligation by underlining this “intolerable evil—the sense of fear and insecurity, of not knowing when at any time you may be accosted by the law and required to produce evidence”.

All Lords but one confirmed that the “toxic element of retrospection” needed to be removed from the 1971 Act, as Baroness Gaitskell put it. The only Lord was Lord Colville of Culross who mobilise the frame composite of [community relations] into the opposite direction by emphasising the need for “a firm and fair immigration control (being) an important factor in maintaining and promoting good relations between the indigenous population of this country and the immigrant community”. By endorsing his mobilisation of this angle of [community relations], he pointed out several different statistics such as the number of “253 illegal entrants during the last year”, which confirmed the urgency of his individual opposition. He perceived the retrospective effect of the 1971 Act as an important part of an effective immigration control.

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72 Hansard, House of Lords, 28 January 1974, col. 16.
73 Ibid.
74 Ibid., col. 16, 17.
75 Ibid., col. 17
76 Ibid., col. 22.
77 Ibid., col. 27.
78 Ibid., col. 50.
79 Ibid., col. 47.
However, concerning the question of whether the Bill should be read the second time, the House was divided: contents 65 and non-contents 80\(^\text{80}\). Henceforth the Bill was rejected (the second time) by the Upper House.

However, the aim of this Bill (the retroactive power to remove ‘illegal entrants’) came into force through a different process at a later point in time. Due to a newly established Government in early 1974, the new Secretary of State for the Home Department, Jenkins MP, replied to questioning posed by Bishop MP on the 11 April 1974 regarding the use of retroactive power to remove ‘illegal entrants’ under the Immigration Act 1971, that he decided to eradicate this power. Jenkins MP justified his decision by pointing out the “risk of encouraging the smuggling of immigrants” as well as the “need to allay the widespread apprehension within the immigrant community which the continued exercise of these retrospective powers would (cause)”\(^\text{81}\). Himself and other actors justified their frame composite of [community relations] by arguing that the “sense of insecurity […] felt by minority groups living here” would be reduced and that “retrospective provisions, which takes away from people rights which they thought they possessed”\(^\text{82}\), were eliminated. Oppositional perception of the eradication of these retroperspective powers, such as given by Molloy MP, were the adverse effect on smuggling immigrants. He believed that these measures […] has given a great boost to the trade\(^\text{83}\).

[Community relations] was the dominant frame composite that actors on both sides of the ideological spectrum used to mobilise as well as legitimise their ‘framed’ understanding of Azam and the judicial ruling accordingly. This frame composite appears again during later stages of this developing policy domain.

4.2.5. Early EEC Leverage and Further Immigration Rules

The impact of the growing structures from the supranational level became clear in 1976 when a drafted EEC Directive on ‘The Future Harmonisation of Laws to Combat Illegal Migration and Employment’ was published.\(^\text{84}\) First, the above-mentioned [EEC] frame composite was mobilised by one coalition group and likewise elements such as [empire] or [culture] were added. These composites carried the symbols of an anti-European and pro-British position. The below discursive evidences will demonstrate the meaning and function of these composites in more detail. Secondly, the problem of irregular migration was understood more and more by this group as an elusive and uncontrollable issue, which produced an alerted undertone. This was mobilised by [unknown numbers] for instance, ending up with:

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\(^{80}\) These are voting results in the House of Lords.

\(^{81}\) Hansard, House of Commons, 11 April 1974, col. 637.

\(^{82}\) Ibid., col. 665.

\(^{83}\) Ibid., col. 660.

\(^{84}\) Draft Directive on the Harmonisation of Laws to combat Illegal Immigration and Illegal Employment, R/2655/76.
Before the EEC Directive was published, a general debate in the House Lords on ‘immigration polices’ paved foundational ideational patterns for the above frame formation. On the 24 June 1976, Lord Gridley referred to “good race relations”, which were difficult “to overcome in assimilating various national characteristics, the overcrowding of our schools and cities, and the attendant increase in the density of our population at a time of economic difficulties”. With this position he mobilised [empire] and [culture].

“Their children go to our British schools” and “because of the religious scruples of her parents,” some girls don’t “like to play school games bare legged”. Lord Gridley went on and reminded the House that “we were once the head of the Commonwealth - we were the founders of a great Empire and we have had experience of these things - it is extraordinary that we should allow these problems to arise before these people come here.” He continued by appealing “to regain our strength and spirit of adventure as a great nation and recreate our wealth”. This understanding was shared by Baroness Vickers who joined the above mobilisation efforts. She made an example of Jamaicans who “if it is a sunny day they come out on their doorsteps and sing and make noise. We know that most British people keep their windows closed during most of the year and live inside their house. They do not understand them.”

An oppositional frame formation consisted of [racism] and [civil rights]. Lord Avebury anchored these composites by stating: the “language” that was used “would be more appropriate to trying to keep rabies out of this country”, “evil utterances of racist outside […] are giving aid and comfort to some of the nastiest and most dangerous elements in our society which aim to build, not Jerusalem, but Auschwitz, in England’s green and pleasant land”. He pointed to Britain’s “racist immigration policy” that left “little hope of eradicating racism within the country” considering the separation of families and the denial of educational opportunities, which he contrasted by recapping the Magna Charta and the European Convention that gave everyone “right to respect for his private and family life, his home and his corresponcence”.

86 Ibid., col. 500.
87 Ibid.
88 Ibid., col. 536.
89 Ibid., col. 504, 505.
90 Ibid., col. 507.
91 Ibid., col. 508.
This conflict of frame formations of a rather broad immigration control perspective was propelled by the issue of irregular migration and the composite of [unknown numbers]. Numerous times the supporter of [empire] culture underlined the non-existence of official statistics for numbers of irregular migrants, which depicted the issue in question as uncontrollable and therefore unsettling. Hence a link was created to this composite and extended by [insecurity], thus one could find:

[EEC] empire] culture

+

[unknown numbers] insecurity

As Viscount Colville of Culross stated, “we should know how many people there are to come. But above all, fear and rumour will remove themselves from this whole explosive situation if only we can get more and more of truth brought out about what it is we have to face, how many are going to come here.” He referred to “rumours of a very much larger number of people”. Lord Harris of Greenwich contradicted this extension by stating that such “fears on this evidence of tens of thousands of illegal entrants really seem to be exaggerated”; it is a dangerous folly to exaggerate the extent of this problem.

Nevertheless, this extension of [unknown numbers] insecurity linked to [empire] culture was successfully mobilised, since the concern over the number of irregular migrants could be continuously found in questioning from the 30 June 1976 in the House of Commons as well as during another questioning on the 14 July 1976 in the House of Lords.

Keeping in mind such framing dynamics, on the 15 December 1976, the Select Committee on the European Communities examined the EEC Directive (R/2655/76). As already pointed out, this Directive aimed to harmonise laws of EEC Member States to combat illegal immigration and illegal employment. The preliminary draft would require legislation in the UK to provide sanctions against the organisers of illegal immigration as well as employers who give work to ‘illegal’ migrants. The latter would commit an offence for knowingly employing an immigrant who does not have permission to work, which directly affected the criminal law in the UK. Further requirements claimed certain provisions on the right to appeal.

92 Ibid., col. 553.
93 Ibid., col. 562
94 Ibid.
95 Ibid., col. 564, 565.
The examination of witnesses (stakeholders who were invited to this Committee sitting) on the 15 December 1976 and on the 26 January 1977 regarding the 20th Report of the Select Committee on the European Communities on the EEC Directive demonstrated a moderate picture of the [unknown numbers] element, however, there remained a vigorous interest by Committee Members. As the Chairman Baroness Seear pointed to “immigration control (as) […] one of the basic functions of a Government”, Baroness Tweedsmuir of Belhelvie forwarded the need to “ask what […] the size of the problem of people trying to find illegal employment” would be. Lord Fulton wondered whether or not “they must have flooded in, because the figure is enormous, is it not?” The examined experts did not support the policy issue focussing on the number of people, i.e. they demobilised the [unknown numbers] composite. For instance, in the written submission by the Community Relations Commission, it was warned that fostering the “exaggerate fears of ‘influx’” and that estimates of the numbers of ‘illegal’ immigrants in the United Kingdom are not available, but those “figures which are collected indicate the problem to be a small one”. Nevertheless, Committee members such as Baroness Masham of Ilton sought an answer to the question of “how many do you think come in a year, illegally?” once more answered by the expert stating they “do not know the total number”. It seemed that incomplete knowledge of the subject needed to be demonstrated, to consequently justify and mobilise the [unknown numbers] insecurity element and the frame formation by this coalition group.

This conflict continued further as can be seen in the following debate in the House of Commons on the 24 June 1977. The House took note of the EEC Directive and debated selected amendments standing in the names of Spearing MP and further actors. Main issues were seen in Article 2, which required an insurance of effective controls for the purpose of preventing and identifying irregular migration and illegal employment. These were also bound to the imposition of sanctions on employers who were found employing migrants illegally, which was given by Article 3 of the Directive.

The requirements of the European Directive were based on a different approach of control, i.e. internal control, which were opposed from the beginning and merged into an underpinning of the [EEC] frame composite. Dunwoody MP claimed that the “rubbish coming out of Brussels at great speed” such as that encompassed by the Directive of demanding “identity cards in the street”, […] is not an idea that is generally acceptable to the British people, who are rather fond of their freedom.” This alienating [EEC] composite was extended by the notion of sovereignty, so one could find [EEC] sovereignty. Price MP referred to the “EEC legislation entering all the nooks and crannies of our society like a river sweeping

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96 House of Lords, European Communities Committee (Sub-Committee C), 20th Report on Illegal Immigration, Session 1976-1977, No. 91, p. 9, 10.
97 Ibid., p. 12.
99 Ibid., p. 28.
100 Ibid., p. 33.
101 Ibid.
back up from the sea”, and emphasised that “this nook and cranny of our society […] as many of us believe to be a wholly inappropriate area […] forcing us to amend Britain’s criminal law.”\footnote{Ibid., col. 2004.} He went on and underlined the distant relationship to the EEC by stating that he did “not know who those Brussels lawyers are”\footnote{Ibid., col. 2007.}, which was confirmed by Sims MP who claimed that the “system of control differs from that on the Continent and is much more effective”.\footnote{Ibid., col. 2008.} This unacceptable measure of ID cards that differentiated the EEC from the UK was frequently underpinned by actors, for instance, Lyon MP who drew attention to European countries that “have a different sort of policing and a different attitude to the way in which people move about and are free to move within their countries”\footnote{Ibid., col. 2027, 2028.}, hence “we do not register people at hotels as they do on the Continent and we have no identity cards and internal checks”\footnote{Ibid., col. 2028.}. Further, such negative connotation with the “Continent” was linked to national interests, so that the one could lastly find:

\[
\text{[EEC] sovereignty] + [national interests]}
\]

Dunwoody MP insinuated that the EEC “is actually spreading its net into areas in which it has neither direct nor real responsibility” and which “is not in the interests of the British people or of the immigrants who are working here”.\footnote{Ibid., col. 2025.} In fact, by spinning the commonly acknowledged negative effect on [community relation] as it was used earlier by oppositional actors, to a matter of [national interests] he added this extension and one is left finally with:

\[
\text{[EEC] sovereignty] + [national interests] community relations]}
\]

In a following examination by the Select Committee of Race Relations and Immigration on the 24 November 1977, the questioned witnesses fortified the effective [unknown numbers] insecurity] composite. Mr. Coney, Mrs. Page and Mrs. Max of the Immigration Control Association vehemently
underlined that existing figures of “coloured people here is far higher than the current suggestion”\textsuperscript{109} and they assume that one of the major problems is the “massive influx of illegal immigration” and “we do not think it is tailing-off”\textsuperscript{110}. Furthermore, they pointed to the fact that “illegal immigrants coming over the beaches without the vestige of a health check” making an allusion of uncontrollable incoming diseases as well as stating that one cannot identify “whether a person is an illegal immigrant just by looking at them”.\textsuperscript{111} “They always have an air of being lost even in Southall”, since “immigrants who come to this country properly provided for will know where to go”.\textsuperscript{112} It also had been referred to cultural aspects of “Halalsla meat”\textsuperscript{113} and “unfortunate birds with their throats cut, thrown on the ground, to flutter to a bloody death in the dust”.\textsuperscript{114} This examination was not formally part of a policy process, but the seemingly effective frames such as [unknown numbers] insecurity] become transferred to schemata of interpretation related to panic and xenophobia.

A subsequent illustrative policy process began on the 4 December 1979. This was the white paper on new Immigration Rules\textsuperscript{115}. Major issues of discussion were new regulations towards overstaying, arranged marriage and the control of immigrants’ dependents.

Irregular migration was addressed by the issue of overstaying that was aimed to be combated by more restrictive entry requirements for visitors (para. 93-95)\textsuperscript{116}, working holiday makers (para. 96)\textsuperscript{117} and students (para. 97)\textsuperscript{118}. More requirements, documenting and clarifying the purpose of entry were demanded at the port of entry. Additionally, the above categories as well as ‘au pairs’, businessmen and self-employed, persons of independent means, writers, artists and husbands were proposed to register with the police (para. 65)\textsuperscript{119}. Further restrictions were imposed in this proposal on the immigrants’ dependents.

Whitelaw MP referred to the “constant and massive pressure”, and “changes in the rules are designed to make it more difficult for people who come here for temporary purposes to prolong their stay with the object of achieving settlement or going underground and evading the control altogether.”\textsuperscript{120} He started to mobilise the established [unknown numbers] insecurity] composite in order to justify the proposed changes by pointing to an “attempt” of a survey “to discover the extent of the overstaying”, which “does

\textsuperscript{109} Select Committee on Race Relations and Immigration, House of Commons, Session 1977-1978, 24 November 1977, p. 382.
\textsuperscript{110} ibid., p. 386.
\textsuperscript{111} ibid.
\textsuperscript{112} ibid.
\textsuperscript{113} ibid., p. 385.
\textsuperscript{114} ibid.
\textsuperscript{115} Commanded Paper 7750, House of Commons, Session 1979-1980, Cmnd. 7743-7763.
\textsuperscript{116} Cmnd. 7750, p. 22.
\textsuperscript{117} ibid.
\textsuperscript{118} ibid., p. 23.
\textsuperscript{119} ibid., p. 15, 16.
\textsuperscript{120} Hansard, House of Commons, 4 December 1979, col. 259.
not enable any reliable estimate to be made of the number of overstayers” and underlined that it is “unrealistic to expect every potential overstayer to be identified”\textsuperscript{121}, which even alluded to higher ‘unknown’ numbers.

In fact the opposition did not see “divisions on that issue”, since the “problem of overstaying is real and should be dealt with”.\textsuperscript{122} It seemed the House had a rather tacit consensus over the issue of overstaying, whereas other issues, which were seen in a much broader sense of controlling immigration issues in general were more fundamentally debated. Such conflicts on broader immigration control issues demonstrated a growing focus on ‘internal consequences’; in other words the effect of immigration on the host society was itemised.

The central frame composite was [overcrowded island] and its link to [community relations], which was revived by the Prime Minister Mrs. Thatcher by stating in January 1978 that the UK was getting “swamped”.\textsuperscript{123} Budgen MP underlined the “widespread fears of unending millions who might claim entry into this country and that this anxiety must be removed, and removed urgently”.\textsuperscript{124} Steel MP mobilised it by emphasising “the totality of immigration (that) must be looked at and we must ask ourselves whether the rate and the magnitude of the changes are more than the community can stand.” He went on and highlighted that this “rate of change cannot [be] tolerated if people are to continue to feel a sense of history and destiny.”\textsuperscript{125}

Additionally, although Steel MP admitted that immigration “can enrich a community, he claimed that too rapid and too great a movement damages a community and destroys its sense of identity.”\textsuperscript{126} By forwarding the ‘damage of identity’, he created a new frame composite of [British identity] and linked it to [community relations] as well as [overcrowded island], so one could find:

[overcrowded island]

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[community relations]

+

\textsuperscript{121} Ibid., col. 260.
\textsuperscript{122} Ibid., col. 266.
\textsuperscript{123} Hansard, House of Commons, 27 July 1979, col. 1268.
\textsuperscript{124} Ibid., col. 343.
\textsuperscript{125} Hansard, House of Commons, 4 December 1979, col. 302.
\textsuperscript{126} Ibid., col. 299.
This frame formation was fortified by Carlisle MP who mobilised this frame construction by drawing attention to “the real feelings of the indigenous English population (that) have been totally ignored”\textsuperscript{127}. He went on and signified such ‘real feelings’ as “fears that have inevitably built up since many thousands of immigrants came into the country during the 1950s. Those fears are justified because whole areas of our urban environment have completely changed in character and culture and in their social personalities.”\textsuperscript{128} Such [British identity] was seen as being undermined by this depicted “unending influx”.\textsuperscript{129} He saw “however, (that) there is still a great sense of national pride, a sense that this is our heritage by birthright, to be jealously guarded against violent change and intrusion”.\textsuperscript{130}

There were oppositional efforts to demobilise the above frame formation and correspondingly the policy aims of the proposed Immigration Rules by signifying it as “a matter of shame”. Lyons MP continued to forward the [rights] frame element and stated “it is shaming to this country and it makes people like me, who are interested in human rights, not know where to look.”\textsuperscript{131} He depicted these new rules as “a disgrace.”\textsuperscript{132} Bidwell MP joined Lyons MP in his position and pointed out that “these proposals contravene paragraph 3, 8, 12 and 14 of the European Convention of Human Rights.”\textsuperscript{133} Marshall MP appealed “to show that Britain still has some self-respect and that we are prepared to defend basic human rights”.\textsuperscript{134} This element was extended to [rights] race relations] as Marshall MP emphasised “an attack upon the social and cultural conditions”\textsuperscript{135} and proclaimed therefore the “shabby White Paper”\textsuperscript{136} as having “an adverse effect upon a small minority, the Asian minority, in this country”\textsuperscript{137} as “racist and sexist”.\textsuperscript{138} Bidwell MP started this mobilisation earlier and hoped that “God help race relations in the country”.\textsuperscript{139}

Other members of this group of actors such as Emnals MP claimed “a great harm to race relations in Britain” by these “despicable proposals in the White Paper”.\textsuperscript{140} Dorrell MP underpinned the frame by

\textsuperscript{127} Ibid., col. 319.
\textsuperscript{128} Ibid.
\textsuperscript{129} Ibid.
\textsuperscript{130} Ibid., col. 320.
\textsuperscript{131} Ibid., col. 323.
\textsuperscript{132} Ibid., col. 325.
\textsuperscript{133} Ibid., col. 329.
\textsuperscript{134} Ibid., col. 340.
\textsuperscript{135} Ibid., col. 339.
\textsuperscript{136} Ibid., col. 338.
\textsuperscript{137} Ibid., col. 338, 339.
\textsuperscript{138} Ibid., col. 338.
\textsuperscript{139} Ibid., col. 331.
\textsuperscript{140} Ibid., col. 303.
pointing to the importance of “human rights” as it was likewise forwarded by the major Churches, including the Church of England, the Roman Catholic Church, the Presbyterians and the Methodist Church. Deakins MP regarded the rules as “rules […] that […] are so discriminatory”.

The White Paper was rejected as the House was divided by Ayes 251 and Noes 296. Most of the speakers in this debate either vehemently or moderately rejected the White Paper, and although the House rejected it, the vote’s result could be rather seen as a success for the frame mobilisation by the supporters of the Bill. In the end, as the Minister of State Mr. Raison put it, the White Paper “may unquestionably offend some people in terms of theory and theology, in practice (it) is based on common-sense realities”, which alluded to inevitable future regulations that were to come.

In the House of Lords the [race relations] rights frame composite was effectively used in a debate on the 11 December 1979 (still addressing the white paper on new Immigration Rules).

Lord Avebury included another element, which became already significant in the debate on the Immigration Rules No. 79-82 in 1973, that is of “natural justice”, so one could find:

[race relations] rights] natural justice

He referred to the proposed rules in the white paper as “racially and sexually discriminatory, incompatible with our international obligations and contrary to the principles of natural justice”. This extension was likewise supported by Lord Scarman who quoted from the Universal Declaration of Human Rights which state “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human life”. Others such as the Bishop of Bradford underlined the White Paper “do ill because it infringes on the legitimate cultural freedom of other races”.

In fact almost all speakers including Baroness Hornsby-Smith, were in favour of this frame construct and rejected the White Paper. In the end, the House was divided by contents 55 and non-contents 88. In terms of speakers that were heard in the House, an even more explicit result could have been expected, and yet, the measures towards overstaying were a matter of consensus.

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141 Ibid., col. 307.
142 Ibid., col. 312.
143 Ibid., col. 371.
145 See section 4.2.3; Hansard, House of Commons, 21 February 1973, col. 609.
146 Hansard, House of Lords, 11 December 1979, col. 1022.
147 Ibid., col. 1065.
148 Ibid., col. 1049.
Expert consultations such as the examination of witnesses in the Select Committee on Race relations and Immigration, revealed additional frame mobilisations which, however, had minimal leverage on the formal policy process, as the voting of the Houses has proved. In November 1978, Ms. Maldonado from the Migration Action Group rejected proposed methods and claimed that they “are not going to solve anything”. She emphasised “looking at the causes, and it is at the causes that, perhaps, the communities themselves can help”. In other words, a more cooperative method that also involved “working with some of the people who at the moment have overstayed”. Such mobilisation of the earlier [civil rights] or the [racism] element could rarely be found in the current frame construct actively forwarded in the Houses.

4.2.6. British Nationality Act 1981

The policy process of the British Nationality Act 1981 was mainly involved with the legal British identity formation, which encompassed controlling measures towards immigration control, but not as combat strategies against irregular immigration per se. The impetus of touching regulating provisions of irregular migration arose from an examination of witnesses in the Home Affairs Sub-Committee on Race Relations and Immigration. It delivered a rather insecure and instable impression of handling the policy field of irregular immigration and especially the “searches for illegal migrants”. It presented a state-of-the-art on combating and prosecuting irregular immigration as well as incumbent practices of authorities and police forces.

The Bill for the British Nationality Act aimed at a change of citizenship laws and regulations. First and foremost the Bill proposed a change of the ancient principle of citizenship law in the UK. The principle Jus Soli, which gave each individual the right to obtain British citizenship when he or she is born on British soil, was aimed to be abolished or modified. In this Bill, the Government referred to the main uneasiness of “allowing people not permanently settled here to transmit British nationality to their children”. The newly proposed Clause 1 offered citizenship only to the children of “settled” parents. The crucial term of a person being “settled” was subsequently defined by the Standing Committee given by the amended Clause 46 (2) as persons being ordinary residents without being subject to any immigration control or to any restriction on the period for which they remain.

Second, Clause 2 contained the statement that citizenship should not be transmitted beyond the first generation born abroad, exceptions apply when persons have close ties with the UK, which were children

149 H.C. 73i, Select Committee on Race Relations and Immigration, p. 328.
150 Ibid.
151 Ibid., p. 326.
of Crown servants who have been recruited in the UK as well as children of parents being employed with the associated service of Her Majesty’s Government.

Third, Clause 3 stated that British citizens by descent, in employment abroad would be entitled to register their children as British citizens if they were working for British firms, or someone for foreign companies associated with British firms, or working for an international organisation of which the UK was a member. In essence, it would create five forms of citizenship which were 1) British citizenship, 2) British citizenship of the British dependent territories, 3) British overseas citizenship, 4) persons being under British protection, 5) British subjects without citizenship. Significantly, only the first category enjoyed the right of abode, while the British citizenship of dependent territories did in itself not convey a right of abode, but most citizen of these territories had the right to entry under the immigration laws of the particular dependency.

The central disputed amendment was the major legal amendment changing Jus Soli, which should be looked at in particular, since it gave rise for some actors to call this Bill a Bill of immigration control and not a Bill of citizenship. In the second reading of the Bill, Hattersley MP stated “that this is not a nationality Bill at all, but an immigration control Bill”,154 it was “just dressed up to look like it”155. At a later point of time during the process Hattersley MP accused the proposed Bill of a “scheme” that “is largely the result of the Government’s obsession with overstaying and illegal immigration”.156 In focus of the conflict was the above-elaborated Clause 1 and the related Clause 46 (2), which disqualified British citizenship to the children of students, visitors, overstayers, and other ‘illegal’ immigrants. Concerning this element of the Bill, frame conflicts could have been identified as follows below. The vagueness as to the interpretation of the term ‘settled’ and the related term of an ‘ordinary resident’ gave rise to several disputes.

The following group of actors mainly forwarded a frame construction, which was based on the frame [race] element, however linked to [discrimination] and to an extended composite of [vagueness] arbitrariness, thus one could find:

[race] discrimination

+

[vagueness] arbitrariness

155 Ibid., col. 947.
156 Hansard, House of Commons, 3 July 1981.
In the second reading in the House of Commons, Hattersley MP referred to the clauses that defined the new requirements and pointed to the “word ‘settled’ (that) […] does not include persons living here with restrictions on their stay (or) […] does not include people whom the courts decide are not ordinary resident here.”\textsuperscript{157} As a consequence, he underlined new state powers, which were in his view “quite wrong that a family’s future or the state of an individual should be decided by a civil servant’s recommendation and the personal subjects judgement on the matter of the Home Secretary of the Minister of the State.”\textsuperscript{158} Such powers inherited the [discrimination] element “which is made, that one family’s child born abroad is British by nature and the child of another family born abroad is British by courtesy of the Home Secretary.” He concluded that “this can only have a deeply adverse effect on race relations.”\textsuperscript{159} He furthermore added that “the Nationality Bill is based on the Government’s prejudices concerning entry and settlement, inevitably the Bill in itself discriminates. It discriminates against the black population in the Commonwealth and it discriminates against the black population in the United Kingdom.”\textsuperscript{160} In a second step, Hattersley MP included another element into this frame formation which was forwarded by this group of actors. This was [inequality]; as such one could find:

\begin{align*}
\text{[race] discrimination} \\
+ \\
\text{[vagueness] arbitrariness} \\
+ \\
\text{[inequality]}
\end{align*}

Again, [inequality] was coupled with an emerging element of [insecurity] as Steel MP as well as Sever MP emphasised after the Committee stage of the Bill, ending up with following formation:

\begin{align*}
\text{[race] discrimination} \\
+ \\
\text{[vagueness] arbitrariness}
\end{align*}

\textsuperscript{157} Ibid., col. 949.  
\textsuperscript{158} Ibid., col. 951.  
\textsuperscript{159} Ibid., col. 950.  
\textsuperscript{160} Ibid., col. 947.
Steel MP pointed to the fact that “the certainty of a child born here, irrespective of parentage, that he is a British citizen has been an important factor in encouraging the security of the ethnic minority.”

Sever MP agreed and added that “members of ethnic minority communities undoubtedly feel uneasy” and criticised the “scant regards to future racial relationships in Britain.”

These elements were picked up by other members of the group; Lyon MP insinuated that “there is a basic injustice in consular registration” and Hattersley MP additionally commented on the unacceptable perspective that the “children and grandchildren of the immigrants who came here in the 1940s, 1950s and 1960s who will be required to prove and demonstrate that they are free and equal citizens.”

Likewise during the second reading in the House of Lords on the 22 June 1981, where Lord Elwyn-Jones quoted statements by civil organisations and referred to the “Bill (which) creates new uncertainties and, if it becomes law, sharply increase feeling of vulnerability and insecurity”. He specifically referred to formulations such as in Clause 1(3), which he believed that “will be a cause of anxiety and confusion.”

A final element which completed this frame formation was [rights], so one ended up with:

[race] discrimination

[vagueness] arbitrariness

[inequality] insecurity

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161 Hansard, House of Commons, 3 June1981, col. 938.
162 Ibid., col. 940.
163 Ibid., col. 932.
165 Ibid., col. 861.
This frame formation was *inter alia* mobilised by the scenario of potential stateless children. Lord Elwyn-Jones stated that “for centuries citizenship of our country has been the birthright of everyone born within, irrespective of their parents’ citizenship.”\(^{166}\) For the first time in our history a number of children born in the United Kingdom will be stateless.\(^{167}\) He formulated the mobilising essence of the frame that “the Bill […] takes away rights that are significant to the black community.”\(^{168}\)

The oppositional group of actors supporting the proposed Bill demobilised the [race] element by underlining that the Bill’s aim of revising requirements of British citizenship is to cease the ‘automatism of citizenship’. As a consequence this group forwarded the component of [control] and linked it to [race] which can be depicted as:

```
[control]
+
[race]
```

The Secretary of State for the Home Department, Mr. William Whitelaw, presented the Bill in its second reading in the Lower House signifying “a more meaningful citizenship for those who have close links with the United Kingdom”.\(^{169}\) The [control] composite, he mobilised by stating that the Bill “would also cover children of illegal entrants and overstayers. However, a person’s racial origin is not relevant”.\(^{170}\)

In second reading in the House of Lords, Lord Belstead introduced the Bill, who forwarded the above frame formation and underpinned it by illustrating with the hope that the “Lordships (consider) contradictions and anomalies in our present nationality law – (and) will agree that revision of our citizenship laws is, therefore, overdue.”\(^{171}\)

During the next sitting in the House of Lords, Lord Home of the Hirsel supported this necessity by forwarding the established frame element of [overcrowded island] by referring to “an overcrowded country which is bulging at the seams”. Others joined these mobilisation efforts of [overcrowded

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\(^{166}\) Ibid., col. 860.
\(^{167}\) Ibid., col. 861.
\(^{168}\) Ibid., col. 862.
\(^{169}\) Hansard, House of Commons, 28 January 1981, col. 936
\(^{170}\) Ibid., col. 936
He continued and linked this component with the above, however, he extended the [control] component by adding an element of [necessity], so one could find:

[control] necessity

+[overcrowded island]

This formation was fortified by Lord Aylestone through his effective extension of the composite [overcrowded island]. He added [unknown numbers], thus:

[overcrowded island] unknown numbers

He asked himself “how many overstayers are there; how many illegals who have children in this country? Are these significant numbers? […]”, and answered: “We have had no numbers”. Again, the issue of irregular migration was once more seemingly left uncontrollable.

During one of the Whole House Committee meetings, the Lords debated Clause 1 and the matter of statelessness as a possible consequence of abolishing the Jus Soli principle. The supporters of the Bill were rather quiet and mobilised the above frame formations from time to time while the critics of the Bill were comparatively active in appealing to the House “to give this matter their urgent reconsideration” as Lord Gillford put it. In fact frame mobilisations of the oppositional group were not as specific as demonstrated above, but the rather overarching and established frame composite of [humane principles] was used as to appeal to the members for one of the last times. Lord Elwyn-Jones referred to “statelessness has been one of the many curses of the twentieth century, perhaps equalled in this field only by the refugee problem.” Arguments of foreseeing a deepening of a racial rift were used in order to mobilise the component of [race relations] and created a link, thus:

[humane principles]

173 Ibid., col. 604.
174 Ibid.
175 Hansard, House of Lords, 6 October 1981.
176 Ibid., col. 22.
177 Ibid., col. 9.
Lord Davies of Leek “sincerely believe[s] that this legislation, if left like this, exacerbates the racial problems that we are likely to have.”\textsuperscript{178} Lord Molloy supported his argument and stated: “This Bill will take us back and deny to us the achievements in which we all believe – that of making progress towards the great ideal of recognising the commonality of all humanity”.\textsuperscript{179}

The Lord Bishop of Rochester extended the frame formation by revising the [insecurity] frame, so one could find:

[humane principles]

+ 

[race relations]

+

[insecurity]

He was “concerned about the uncertainty and apprehension that has been caused to many people on finding their security, and I believe their happiness, gravely threatened by this Bill.”\textsuperscript{180} Likewise, Lord Elystan-Morgan endorsed this framing scheme by referring to the United Nations convention of 1961 and 1964, which included the first cure of statelessness, which “is the cure of granting citizenship at birth.”\textsuperscript{181} He argued: “it is the cleanest, the simplest and the most direct cure and it avoids that fog of miserable uncertainty that can enshroud the life of the person for a long time and perhaps for ever thereafter.”\textsuperscript{182}

Although consensus over amendments of the Bill were achieved by oppositional groups of actors, the major amendment of the British citizenship, Clause 1, was adopted and modified the principle of \textit{Jus Soli}. As mentioned above, the following categories were agreed on: British citizenship, British Dependent Territories citizenship, and British Overseas citizenship. The royal assent was given on the 30 October 1981,\textsuperscript{183} and the Act became effective on the 1 January 1983.

\textsuperscript{178} Ibid., col. 15
\textsuperscript{179} Ibid.
\textsuperscript{180} Ibid., col. 15,16.
\textsuperscript{181} Ibid., col. 21.
\textsuperscript{182} Ibid.
\textsuperscript{183} Hansard, House of Lords, 30 November 1981.
4.3. Period II: 1983 - 1990

4.3.1. Socio-Historical Background 1983 - 1990

The 1980s were dominated by a British economic decline and drastic Thatcherite economic reforms and their related vision of societal change.

As her reputation promised, Thatcher had to overcome several revolts among members of the Conservative Party. With a record-breaking number of runs as Prime Minster, there were an increasing number of Thatcher’s ex-ministers who became leaders of revolts over one policy or another. One of her most consistent critics was Edward Heath who took up a rather left-wing position and had a substantial oppositional position on the Government’s policy towards the European Union. Other ‘wet’ critics of the Government’s policies formed a new Conservative group, the so-called Centre Forward. Francis Pym, a former Foreign Secretary before the 1983 elections, James Prior (Secretary of State for Northern Ireland until 1984) and Sir Ian Gilmour (Lord Privy Seal until 1981) were members of this new group, which aimed to oppose policies on unemployment and the economy as well as matters of foreign policy. The resignation of Michael Heseltine (at the time the Secretary of Defence) also had a significant impact on Thatcher when he mobilised a revolt of 72 Conservative MPs against the legislation of Sunday Trading in April 1986. Nevertheless, Thatcher managed to withstand all revolts.

Although the election was won in 1987, the Conservative Party had lost seats to the Labour Party, especially in Scotland, London and the Midlands.

Britain had to face another economic shock triggered by the stock exchange’s Black Monday, when around £50 billion were wiped off City Stock values amounting to £102 billion by the end of the week. Small investors were affected and watched their funds evaporate. Britain’s new prosperity in the 1980s was fundamentally produced by a speculative boom and its expansion of credit, and increase in consumer products, could not be sustained. By the 1990s, the lost values of small investors had not been recovered. Several cases of corrupt businesses were revealed. Robert Maxwell, the media and publishing tycoon conceded that he had plundered the pension fund of his employees. Likewise, investigations discovered that the Bank of Credit and Commerce International was involved with massive fraud in its operations and was consequently closed down. Trails also led to the Bank of England. Such allegations were taken over by investigators of the Serious Fraud Office.

In broader economic terms, the British economy was recovering in the mid 1980s and its performance concerning per capita output productivity especially in the manufacturing sector, which made some observers talk about a British ‘economic boom’. However, these observations were mitigated as
manufacturing productivity was not accompanied by an improvement in the rate of growth of output or GDP per capita resulting in a drastic reduction of GDP growth occurring at the end of the decade (Coutts and Godley, 1989). Also unemployment rates increased in the 1980s. The numbers of individuals out of work and claiming benefits rose from 4 per cent in 1979 to 10 per cent in 1983, which made it 3 million people out of work its highest peak (Nickell, 1999). From 1983 the unemployment rates gradually fell until the early 1990s. In line with incumbent economic ideational thinking, the unemployed themselves were mostly blamed for their plight and as already declared by the Employment Secretary Mr. Tebbit in 1981, such people should ‘get on their bikes’ and look for work as their fathers did in the 1930s. At the same time, homelessness increased substantially and became an endemic problem across society in the 1980s (Anderson et al, 1993).

Free market policies and the rolling back of state policies by enhanced privatization and economic competition as it was initiated by Thatcherism and its Hayekian/Friedmanian episteme, might have had an effect on other units of society. The Thatcherite ‘enterprise culture’, which aimed at the resurrection of the British economy, had its casualties. Another aspect of internal affairs at that period of time in Britain was the changing role of churches since the interwar period. The Anglican Church of England claimed 2,270,000 members in 1975 and by 1993 this number shrank to 1,840,000. The same picture applied for the Catholic Church where the numbers fell from 2,530,000 to 1,950,000. The number of members of the Methodist, Baptist and Presbyterian Churches fell in the same fashion. Church leaders such as the Archbishop of Canterbury, Robert Runcie or Michael Ramsey, lost their voices within political circles. They both supported disadvantaged British people by for instance favouring policies to diminish discrimination against homosexuals, to abolish capital punishment and, in particular, both stood up against racism.

At the same time, the rise in recorded crime increased inexorably and in year 1986 to 1987, crimes against the person increased by 12 per cent. In 1963, there was a mere 23,000 divorces in England and by the early 1990s, the number of divorces made up 33 per cent of all marriages per annum. The societal institution of the family unit seemed to lose its importance (Robbins, 1994). The National Health Service (NHS) survived the roll back of the (welfare) state, although many Conservatives wanted to privatise the NHS. However, most aspects of the service of the NHS did not improve under the stewardship of the Conservative administration. Doctors were expected to prescribe cheaper medicines and patients were kept in hospital for shorter periods after operations. Private health care was widely encouraged in the 1980s. The Government could claim that there were more doctors and nurses at work then ever before, however, the NHS was still obviously insufficiently funded (Day and Klein, 1989).

184 This was applied to enterprises such as British Telecom (1984), British Gas (1986), British Airways (1980, British Steel (1988), et cetera.
Such inner societal casualties erupted among community members who felt most neglected by the welfare state. After the first wave of ‘race’ riots in 1981, a second wave took place between 1982 and 1985. As provoked by journalists such as Peregrine Worsthorne who referred to a lack of assimilation politics, several incidences occurred including the occupation of a police station in Bedford in 1982 as well as clashes with the police in Notting Hill and Liverpool/Everton (Young, 2003). Between 1982 and 1984 a series of lower-scale riots took place in London, Birmingham, Liverpool, London, Manchester, Sheffield, Slough et cetera and once more escalated in heavy street battles in Brixton in 1985 (Düvell, 1998).

In general, immigration policies were more and more tuned towards the exclusion of people from the New Commonwealth. Additionally, in 1985, visa requirements were introduced for citizens from Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the USSR; all African countries except Algeria, Ivory Coast, Morocco, Niger, Tunisia and the Republic of South Africa; Cuba, Argentine Republic; likewise citizens from Bangladesh, India, Sri Lanka as well as Pakistan. A crucial reinforcement of restricting entry to the UK was the Carriers' Liability Act of 1987, which imposed fines on all carriers who transported people to the UK without the appropriate documentation. Such new visa requirements, in conjunction with the Immigration (Carriers’ Liability) Act 1987, made the focus of controlling further immigration into the UK quite clear.

Foreign political issues were dominated in this period by Anti-European sentiments vigorously fostered by Prime Minister Thatcher. Until the 1990s, Britain had mostly uneasy relationships with its European partners and cultivated a hard-line scepticism towards the adventure of the European Union. Among members of the European institutional apparatus the Franco-German friendship, as this was discovered by Roy Jenkins the British President of the Commission (1977-1981), was especially disliked by the Thatcher administration. Thatcher was much more intensely orientated towards the US and concentrating on the two countries relationship and her interpersonal, ‘special’ relationship with the US President Ronald Reagan (1981-1989). However, Thatcher realised the importance of being involved in the EEC affairs and agreed to the Single European Act 1986, which meant free movement of labour, capital and goods between member states becoming effective in 1992. This milestone of the EEC was forwarded by President Jacques Delors and Lord Arthur Cockfield who was a former Conservative Cabinet Minister and at the time Vice-President of the EEC (1985-1988) played a vital role in the process of Thatcher’s final approval. In line with the development of the Single European Act 1986, Thatcher’s announcement of the intention to join the Exchange Rate Mechanism gave many the idea of a more constructive policy towards the EEC. However, at the dawn of the German re-unification, which stood for a symbol of an increasingly merging Europe, she made her negative opinion on this development public and caused some embarrassment among her British colleagues.
4.3.2. Data Protection Act 1984

On the 24 March 1983, the Data Protection Bill 1984 was published and introduced by the House of Lords. In general, the Bill intended to reassure the public, facing ongoing advances of the information technology industry, that the holding of personal data on a computer was properly controlled. Likewise, the Bill aimed to protect international trading positions given by companies operating on a multinational basis and reduced potential abuse of data or transactions.

However, specific exemptions under particular circumstances were considered which limited the protection of personal data. In more detail, Clause 28 (1) dealt with data used for particular purposes such as the prevention and protection of crime, the apprehension or prosecution of offenders, the assessment or collection of any tax or duty, or the control of immigration. Data held for those purposes were exempt from the Bill’s provisions in regard to subject access if the granting of access would prejudice any of the specific purposes. The following Clause 28 (2) provided the liability of disclosing personal data, of which the particular purposes were disclosed in section 28 (1).

A balance between the demands of data protection and the legitimate objectives of data use was attempted. A conflict between the data subject and the data user emerged, especially regarding a certain group of ‘data subjects’ such as the immigration population, which was treated exclusively considering the stipulated exemptions given by Clause 28 above. Significantly, in both Houses, some Lords and some MPs referred directly to “illegal entrants” or “illegal immigrants” notifying a hidden intention of such provisions as underlined at the end of the policy process by Lord Avebury. Hattersley MP put it more bluntly and criticised “the pursuit of the Government’s unhealthy obsession with illegal immigration”. He found “it intolerable that the assumption of illegality should be brought into our considerations of this Bill”.

In fact, from the very beginning of the process, the group supporting Clause 28, pointed to the possible use of this Bill, which would address persons who “do not follow our rigid Christian/surname formula”, as stated by Lord Elton. In his view the Bill would enable the Government to catch people who, by not following that rigid formula, operate under two names and would be therefore given the “opportunity of avoiding our immigration regulations”.

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187 Ibid.
188 Hansard, House of Lords, 22 February 1983, col. 703.
The underlying principle of Clause 28 was an exemption that was required in the regulation concerning data protection “for the purposes of safeguarding national security”\(^\text{190}\). Although the immigration control element of the Bill was called “the most criticised, universally condemned provision”, conflicts mostly took place in the House of Lords, and were handled in comparatively fast pace.\(^\text{191}\) As Mr. Roberts put it, “many exemption areas” were “covered by the global word ‘security’ – we all accept the need for that”\(^\text{192}\); herewith he mobilised the underlying framing structures of the group supporting the Bill. There were some efforts forwarded by the oppositional group addressing the former frame elements of [human rights] and [civil rights], but these efforts were rather neglected.

A more vibrant framing conflict was begun during sittings of the House of Commons Standing Committee H and continued in a series of sittings by the House of Lords, stretching from 5 July 1983 to 10 May 1984. Clause 28 incorporated only the “personal data held for any of the following purposes (a) the prevention or detection of crime, (b) the apprehension or prosecution of offenders, (c) the assessment or collection of any tax or duty; or (d) the control of immigration are exempt from the subject access provisions”.\(^\text{193}\)

The House of Commons’ Standing Committee H, debated the Clause 28 in the view that sensitive data about individuals could be passed to several authorities including immigration authorities, especially pointing to the fact that no control mechanisms of this data transfer exist.\(^\text{194}\) Mr. Hoolely referred to the Home Secretary’s “ultimate political authority on immigration, deportation and similar issues which cut across all types of complications relating to racial origins, […] which would be bound to influence his judgement.”\(^\text{195}\)

In the House of Lords’ debate on the 5 July 1983,\(^\text{196}\) Lord Elwyn-Jones started to form a [discrimination] frame composite. By referring to the condemnation of the Clause 28 (d) by the Joint Council for the Welfare of Immigrants and several other bodies, he described an “anxiety” related to Clause 28 (d), which emerged “not merely because the category of control of immigration is an enormously broad purpose liable to misuse”, but also for those who were born here and have been settled here for a long time […] created a sense of uncertainty”.\(^\text{197}\) This [discrimination] element was forwarded by Lord Avebury who added an extension such as [race relations] internal controls]. Lord Avebury elaborated upon the UK immigration control system and pointed to a shift from external control, or the control at the port of entry, to control mechanisms within the country as in “increasingly rigorous checks of a person’s

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\(^\text{190}\) Ibid., col. 565.
\(^\text{191}\) Hansard, House of Lords, 21 July 1983, col. 1273.
\(^\text{192}\) Ibid.
\(^\text{195}\) Ibid., col. 101, 102.
\(^\text{196}\) Hansard, House of Lords, 5 July 1983.
\(^\text{197}\) Ibid., col. 517, 518.
eligibility” to have access to “employment, educational, social security benefits”; he added: “To the extent the Bill reinforces the system of internal control, it will have the effect of damaging race relations, reinforcing the alienation felt by some minorities and denying access to essential services”.\textsuperscript{198} He continued and lastly added the element of [liberal democracy] by referring to a quote of Lord Salisbury who stated that “by a free country […] I do not mean a country where six men may make five men do exactly as they like” pointing on the controversial Bill and its capacity of challenging the Government’s “commitment to the principles of democracy”, which constructed the following frame formation:

\[
\text{[discrimination]} \\
+ \\
\text{[race relations] internal control]} \\
+
\]
\[
\text{[liberal democracy]}
\]

Lord Hatch of Lusby targeted Clause 28 and mobilised the above formation and extended it. Clause 28’s intent was having people “lumped together” who were “under control of immigration […] with thieves, tax dodgers and criminals.”\textsuperscript{199} At a later point in time, Lord Elwyn-Jones joined these mobilisation efforts by Lord Hatch of Lusby and added the composite [criminalisation]. Lord Elwyn-Jones supported this additive composite [criminalisation] by linking it to [civil rights] and pointed out Article 9 of the European Convention that stated “no exception to the provisions of Article 5, 6 and 8 - which provide the safeguards for the data subject”, while subparagraph (b) said “protecting the data subjects or the rights and freedoms of other”. Herewith Lord Elwyn-Jones supported the overall concern of the Bill, which seemed in the view of this group of actors that “this provision is a danger of being oppressive, deeply worrying to the immigrant community living among us”.\textsuperscript{200} Lord Lusby vehemently supported these newly introduced frame elements and emphasised the “diminution of the existing rights of the immigrant population”\textsuperscript{201} and also added the element of [morality] as the “Government consider[s] that there is a special kind of morality which is peculiar to immigrants”\textsuperscript{202} resulting in a frame formation of:

\[
\text{[discrimination]}
\]

\textsuperscript{198} Ibid., col. 521.
\textsuperscript{199} Ibid., col. 533.
\textsuperscript{200} Hansard, House of Lords, 21 July 1983, col. 1274, 1275.
\textsuperscript{201} Ibid., col. 1276.
\textsuperscript{202} Ibid., col. 1277.
In the meanwhile, Lord Avebury summarised this frame formation as transmitting the picture of a ‘controlling state’ as this personal information (stored in form of data) would be interconnected and accessible to police and Immigration Officers.\footnote{Hansard, House of Lords, 19 July 1983, col. 1114.} He quoted the Royal Commission on Standards of Conduct in Public Life mobilising the [liberal democracy] component by stating that “there are some exceptions, the philosophy behind most legislations for at least 50 years has been that when the State takes power to require an individual or firm to surrender a degree of personal or business privacy” […]; “there is public anxiety about the transfer of personal information between official agencies and modern methods of data storage have sharpened this anxiety”.\footnote{Hansard, House of Lords, 21 July 1983, col. 1289.} He underlined the powerlessness of individuals towards the state, since there was no “remedy being available to him”.\footnote{Ibid., col. 1290.}

The group supporting the inclusion of Clause 28 (d) was predominantly led by Lord Elton, who demobilised the oppositional frame element of [rights] by restating the Article 9 (2) (b) of the European Convention and underlining the purpose of this Article which was in his view tuned towards “what we
need”. This ‘we’ he connected to “all inhabitants of this country (who) believe that the maintenance of just immigration control are […] true interests”. As Lord Elton backed his demobilising efforts by the concept of the ‘illegal migrant’ in this debate, he referred back to it justifying his evolving frame formation. The proposed exemptions (in Clause 28) were necessary as they may reveal “the person in question is not, or may not be, qualified to enter or remain here under the immigration rules”. He forwards this [control] component by emphasising it was “not desirable, but essential” and added the element [sovereignty] by describing “immigration officials not only as keepers of the gates of this country, admitting those with a right to come here and remain, and turning others away; we have to see them also as the guardians of the principles of nationality and right to reside.”

Further to this, he demobilised the former [civil rights] frame composite of the oppositional group by spinning the perspective of [civil rights]. He changed the perspective towards the relationship between citizens’ rights and the rights owned by the state, i.e. the state’s sovereignty. Thus, he mobilised [sovereignty] instead of [civil rights] by pointing out for instance that “the state protects its individual citizens from the encroachment upon their rights and freedoms that an ineffectively controlled flow of immigrants would undoubtedly produce.” He continued to explain the purpose of the Bill that geared towards “people concerned with illegal entry or residence in this country”, while “personal data held by authorities which would reveal to them the extent to which the authorities were aware of them and of the means of identifying them.” Such proposed exemptions would make criminal law towards “people who come to live in this country and who are not entitled to do so […] criminally enforceable”. He thus extended the formation by [enforcement] resulting in a construction of:

[control]
+
[sovereignty]
+
[citizen’s rights]
+
[enforcement]

208 Ibid., col. 1279.
209 Ibid., col. 1280, 1281.
Lord Elton was challenged by several members of the oppositional group and gained rather thin support by other MPs, which characterised the subsequent proceeding in the House of Lords and the House of Commons in the view of this disputed Clause 28 (d). The Clause was eventually amended accordingly and the exemption (d) on immigration control was removed.\textsuperscript{210}

The following Immigration Appeals Procedure Rules 1984, as well as the HC 503 Immigration Rules Change from 1985, paved the way for evolving frame formations that came into play in a more evident manner in the following major legislative changes. In 1987 and 1988 as well as in the following third period (1990-1999), where another two proposals were forwarded that inherited the similar frame formations while addressing the area of asylum seeking. These are the Asylum Bill 1991 and the Immigration and Appeals Bill 1993.

\textbf{4.3.3. Immigration Appeals Procedure Rules 1984}

The Immigration Appeals Procedure Rules 1984\textsuperscript{211}, a statutory instrument, was published on the 21 December 1984 and laid before Parliament on the 11 January 1985. It included \textit{inter alia} the refusal to extend the right to appeal against the removal of ‘illegal’ migrants. “We see no justification for treating more favourably someone who deliberately managed to enter clandestinely or has obtained leave to enter by deceiving an Immigration Officer, than someone who has been honest about his intentions and has been refused entry as a result”, noted by the Minister of the State Mr. Waddington in a debate on the 4 February 1985.\textsuperscript{212}

On the 4 February 1985, an oppositional coalition group forwarded the Prayer to annul the Immigration Appeals (Procedure) Rules 1984. This oppositional policy coalition criticised the present immigration appeal system as well as the initiated statutory instrument. Dubs MP pointed rule 41 under which “all appeals from an appellant to a tribunal can be carried out […] only with the leave either of the tribunal or the adjudicator, whereas at present there is an automatic right of appeal”.\textsuperscript{213} This rule 41, he continued, “is unnecessarily limiting the rights of anybody who wishes to appeal”.\textsuperscript{214} He forwarded a [injustice] rights frame composite that he underpinned by referring likewise to Rule 4 which set a “time limit of 14 days”\textsuperscript{215} for appellants to apply as well as to Rule 21(c), “which gives tribunals additional powers to dispose of appeal without a hearing” that affected in his view “those people who have applied for entry certificate, being granted one, but, on arrival in the United kingdom, are refused entry.”\textsuperscript{216}

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\textsuperscript{212} Hansard, House of Commons, 4 February 1985, col. 719.
\textsuperscript{213} Ibid., col. 706.
\textsuperscript{214} Ibid.
\textsuperscript{215} Ibid., col. 709
\textsuperscript{216} Ibid., col. 706.
composite was supported by Fraser MP who emphasised the amendment of Rule 6 “so that there is no longer a prescribed form of appeal against the decision of an entry Clearance Officer or an Immigration Officer”. Janner MP likewise underpinned the [injustice] rights frame composite and linked it to another component of [discrimination], hence one could find:

[injustice] rights]  
+  
[discrimination]

Janner MP spoke “on behalf of a vast number of Asian citizens who feel that the discrimination against them at ports of entry by Immigration Officers under current rules is wicked and rampant”\(^{218}\). He added that people “who arrive in this country (are) frightened and often in the same state of deep insecurity”.\(^{219}\) Alton MP extended the composite and added the link of [race relations], thus:

[injustice] rights]  
+  
[discrimination]  
+  
[race relations]

In his view, such new rules “will damage […] and harm”\(^{220}\) the community as “it will undoubtedly create further confusion and frustration among those who are already confused and frustrated by a complicated system.”\(^{221}\)

In contrast, Bruinvels MP directed attention to his constituency where of his “19,500 ethnic constituents, not one has made a representation to me about being unhappy with the new immigration appeal procedures”.\(^{222}\) He demobilised the [injustice] rights composite by spinning it into another direction. In

\(^{217}\) Ibid., col. 709.  
\(^{218}\) Ibid., col. 710.  
\(^{219}\) Ibid.  
\(^{220}\) Ibid., col. 711.  
\(^{221}\) Ibid., col. 713.  
\(^{222}\) Ibid., col. 716.
his view, injustice was not done by such new immigration appeal procedures, injustice was done by people who have been “allowed to come on a visit”, who “have been told that it is time for them to go” and then place an appeal. This was “unfair to those who wish to come here permanently”, he added. The Minister of the State, Mr. Waddington vigorously repelled the oppositional frame constructions without using strategies of demobilisation but mostly addressed the MPs and their arguments directly. “There is nothing to complain about these rules […], at the port of entry we operate a most generous system” and the “opposition are making a fuss”.

These demobilisation efforts were successful and the statutory instrument in question was adopted accordingly.

4.3.4. HC 503 Immigration Rules 1985

In the pre-story of the ‘Statements of Immigration Rules for Control on Entry’ (SIRCE) 1985, developments on judicial basis were taking place such as the ruling of the case Zamir. The judgement of this case, put persons under the ‘duty of candour’, i.e. the obligation to be truthful, and by not doing so, persons would risk ‘to deceive’ the authorities. This was revised again by the judicial case of Khawaja, which established actual or attempted deception before illegal entry. People could no longer be deported as ‘illegal entrants’ on the grounds of having gained entry to the UK as a result of deception. Instead, the Home Office made more extensive use of deportations on grounds of ‘conductive to the public’ as stipulated by Immigration Act 1971, Section 3(5)(b). Notably, most ‘conductive’ deportations between 1973 and 1980 were based on criminal convictions and it seemed this critical qualification had been dropped according to a report by the Joint Council for the Welfare of Immigrants (JCWI) on the 25 March 1985 presented in a Home Affairs Committee Meeting.

In the view of this entry-focused logic of control, the function of Immigration Officers was questioned as they furnished a powerful position in the decision process of allowing ‘leave to enter’ (i.e. permission to enter) the UK. As described by an Assistant Under-Secretary of the Home Office, Mr. Phillips, the officers of the Immigration and Nationality Department (IND) “provide an essential function, and a quasi-judicial function”. Indeed, a partially judicial function that decides upon truth or untruth on the basis of belief, if there was no hard evidence to prove the non-genuine statements by the person in question. The Earl of Listowel referred to “Immigration Officers at home and overseas” as “doing a

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223 Ibid.
224 Ibid.
225 Ibid., col. 718.
228 Zamir [1981] 2 All ER 768.
difficult and controversial job”. Earlier meetings by the Home Affairs Committee tended to unravel enormous pressure for Immigration Officers and suggestion were forwarded as by Mr. Hanley who referred to “immigration matters” that could be “the duty of the carrier”. Mrs. Stevens from the Heathrow Office of the United Kingdom Immigration Advisory Service underlined the situation at ports of entry by pointing to “7000 cases that were dealt with” and most of these “cases were refused at the airport or entry has been delayed”. A meeting by the Home Affairs Committee on the 5 June 1985, described the growing concern of Immigration Officers who were challenged by making decision upon immediate detention of alleged ‘illegal entrants’. Decisions were also made on the basis that there were good reasons for “fearing that the passenger would disappear if released”. Further discussions of the growing burden for Immigration Officers were discussed in additional meetings and eventually led to the externalisation of control responsibilities by new visa requirements and their application processes for certain countries as delegated by the Home Office.

On 15 July 1985, a SIRCE set out guidelines for the new responsibilities of “Clearance Officers” instead of “Immigration Officers” for handling “a person who wishes to ascertain in advance whether he is eligible for admission to the United Kingdom, or who is seeking entry for a purpose for which prior entry clearance is required under these rules, should apply in the country where he is living for the issue of an entry clearance”. Accordingly, visa requirements were delegated for citizens from Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania and the USSR; all African countries except Algeria, Ivory Coast, Morocco, Niger, Tunisia and the Republic of South Africa; Cuba, Argentine Republic; likewise citizens from Bangladesh, India, Sri Lanka as well as Pakistan, although for Pakistan several exceptions applied.

In line with such developments towards a more efficient remote control policy as in the years of 1984-1986, major framing formations and conflicts could be found in the policy process of the Carrier’s Liability Act 1987.

232 Hansard, House of Lords, 6 March 1985, col. 1409.
236 Ibid., p. 18.
239 These Visa requirements were challenged in the House of Commons beforehand (see: Hansard, House of Commons, 21 October 1986, col. 948-964), however, the requirement were approved (see: Hansard, House of Commons, 27 October 1986, col. 138), while it likewise underwent retrospective discussions in the House of Lords (see: Hansard, House of Lords, 5 November 1986, col. 481, col. 1108-1138).
4.3.5. Immigration (Carrier’s Liability) Act 1987

The policy process officially started on the 3 March 1987 and the Bill was enacted by Royal Assent on 15 May 1987, however as shown above other supportive policy measures were brought on its way beforehand.

The Bill on Immigration (Carrier’s Liability) as published on the 3 March 1987, was directed towards prospective irregular movements into the UK. The ‘carrier’, at that point in time the policy was constrained to air and sea traffic, was made “liable to pay the Secretary of the State on demand the sum of £ 1,000” (section 1 (1)), if a person that is required a leave to enter arrives in the UK by this ship or aircraft and fails to produce, as section 1 (a) and (b) says “either a valid passport with photograph or some other document satisfactory establishing his identity and nationality or citizenship; and if he is a person who under the immigration rules requires a visa for entry into the UK, a visa valid for that purpose”.

A Home Affairs Committee meeting,\(^\text{241}\) although not being officially part of the policy process, delivered a highly supportive view of the above Bill. Facing the increasing immigration pressures as already fortified in the previous years 1984-1986 of Home Affairs Committee meetings, Mr. Hunt increased awareness of the necessity of measuring pre-checks of persons before embarking ship or aircraft by illustrating the possibility of “clandestine entry”\(^\text{242}\). He referred to an example of a slowing down train and the possibility of “100 Bangladeshis jump(ing) off a train”.\(^\text{243}\) This was however mitigated by Mr. Tompkins, who is a Chief Inspector of Immigration from the Home Office, who denoted the evasion of immigration control by jumping out of aircraft or evading the control after the leaving the aircraft as not “a major issue […], just something that we would need to take account of”.\(^\text{244}\) Nevertheless he welcomed the new Bill on Immigration and the carrier’s liabilities related to this Bill.\(^\text{245}\) A pre-formation of a [pressure] necessity] element becomes apparent, which will play a decisive role in later frame formations.

This commenced frame formation of [pressure] necessity] was likewise set on its way in an earlier debate on asylum seekers in the House of Commons where the Minister of State, Mr. Waddington pointed to “growing irregular movements […], more forged documents and more abusive applications.”\(^\text{246}\) He referred then to the “natural thing” for a refugee “to go to the nearest safe place. Afghans go over to the border of Pakistan. Sri Lankans go to southern India”.\(^\text{247}\) “It seems odd” to Mr. Waddington “that anyone

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\(^\text{242}\) Ibid., p. 17.
\(^\text{243}\) Ibid.
\(^\text{244}\) Ibid., p. 18.
\(^\text{245}\) Ibid., p. 24.
\(^\text{246}\) Hansard, House of Commons, 6 March 1987, col. 1207.
\(^\text{247}\) Ibid., col. 1208.
who is just fleeing from terror should not stop at the first place of safety”, by which he alluded to the oddity for a “genuine refugee” to go to the UK by aircraft, hence such people deciding to do so may not flee from terror but move due to other reasoning.

This caveat was picked up by Mr. Hurd, Secretary of the State for the Home Office, in the second reading of the Immigration (Carrier’s Liability) Bill on the 16 March 1987. He justified the present Bill by drawing attention to “800 people claiming asylum in the three months up to the end of February.” He forwarded the [pressure] necessity] frame element by underlining the danger of “the trickle (that) becomes a flood” and added a new extension of [practice], since “it […] will become increasingly difficult as days pass to send them away”. He emphasised that “we are extremely short of suitable accommodation for detention”, the appeal system will be “overwhelmed” and Heathrow remained “the main place at which large number of undocumented people make claims for asylum.” In addition, Mr. Hurd insisted on the purpose of this Bill, which was not directed against “genuine refugees”, but against “asylum abuse”, which would be reduced by the proposed Bill, so one could find:

[pressure] necessity] practice]

+ 

[bogus asylum]

The opposition commenced to mobilise a [forced bogusness] frame composite as supported by Holland MP who pointed to such alleged asylum abusers who “cannot go through the procedure of applying for the relevant travel documents. They can leave the country only on false documents or by crossing frontiers without producing documents”. This frame element proposed that Bill would therefore affect likewise so-called ‘genuine people’ who would have no choice but using forged documents.

The frame composite of [forced bogusness] was linked to an element of [refugees] by Kaufmann MP who pointed to this group of people that “wish to claim asylum but will never get here because the airline and other carriers will not take the risk of carrying them”. He reinforced this linkage by another element of [international law] and reminded the House of the United Nations Convention (paragraph


248 Ibid.
249 Ibid.
250 Hansard, House of Commons, 16 March 1987, col. 706.
251 Ibid., col. 709.
252 Ibid., col. 714.
253 Ibid.
254 Ibid.
255 Ibid., col. 713.
256 Ibid., col. 721.
Mr. Raison mobilised the extended formation of [forced bogusness] refugee] international law] and added a wider frame component of [tradition], thus:

[forced bogusness] refugee] international law]

+ [tradition]

He picked up a formerly mentioned point by Kaufman MP who referred to Britain’s “sometimes […] outstanding record on acceptance of refugees” which “has enhanced our reputation for humanity in the eyes of the world”, 258 and Raison MP “is deeply concerned that we should not weaken our traditional commitment to do our share in helping refugees”. 259 He proceeded “that we should not get ourselves into a position that is out of line with the UNHCR executive committee’s resolutions”. 260 Another member of this frame coalition was Meadowcroft MP who posed the question of “how can a refugee travel […], if all countries took the same action as the Government are endeavouring to take by means of the Bill”. 261 Likewise, Madden MP mobilised the frame formation by claiming his support by the United Kingdom Immigration Advisory Service (UKIAS) which condemned the Bill as “it will place serious obstacles in the way of bona fide asylum seekers with a genuine fear of prosecution”, 262 while similarly the Immigration Law Practitioners Association (ILPA) confirmed to him that “this Bill is unnecessary, unworkable and in contravention of the country’s international obligations”. 263 He also reinforced the mobilisation of the frame composite of [tradition] when he referred to the Bill as cutting “across the traditional view of this country.” 264 Bermingham MP reiterated [tradition] by questioning “why […] this country has begun to turn its back on an honourable history of catering for refugees and for those who seek asylum”, 265 while Dubs MP underlined this once more pointing to the “Government (that) is slamming the door on that tradition” 266 and furthermore effectively combined [tradition] with [international law] hinting on the underlying humanitarian principle of international law. An additional element of the frame has been forwarded by the chairman of UKIAS, Mr. Winnick, which was [panic]. Mr. Winnick, and in fact several other members of this coalition, stated in relation to the debated recent affair of a number of Tamils seeking refuge in the UK that “to a large extent, the bill was a panic

257 Ibid., col. 722.
258 Ibid., col. 723.
259 Ibid., col. 724.
260 Ibid., col. 727.
261 Ibid., col. 730.
262 Ibid., col. 739.
263 Ibid., col. 740.
264 Ibid., col. 741.
265 Ibid., col. 765.
266 Ibid., col. 779.
reaction”. McCrindle MP similarly pointed to the process of identifying a false document that such matters should be reviewed closely and “adequate attention” should be given to such process matters “at this stage”. Bermingham MP had joined this mobilisation and uttered “legislation that is a reaction instead of being thought through, is often bad legislation”. One could find:

[forced bogusness] refugee] international law]
+

[tradition]
+

[panic]

The oppositional group continued along the lines that were set by Mr. Hurd, Secretary of the State for the Home Office, and Mr. Wheeler mobilised the former frame formation built around the composite of [pressure] necessity] by forwarding the issue of the “Western World” and the “Third World”. He pointed to the “Western democracies in Europe and North America that there is a serious and growing problem of immigration from so-called Third World countries and others.” He further elaborated that “in recent years, the United States, Canada and all the EEC countries have had to consider ways of containing immigration and preventing illegal immigration”, and he concluded that “one loophole that has been exploited - in recent months in particular – is the claim to refugee status.”

Hanley MP emphasised [bogus asylum] by pointing to the need of the Bill that “has been introduced because of suspected abuse by many hundreds of people” and connected this thought with “better race relations – which we all want”. Lawler MP expanded this logic of a link between [bogus asylum] and [community relations] by questioning “how would the Opposition stop bogus asylum seekers and bogus visitors who come here to the detriment of the rest of our community.” Mr. Waddington, Minister of the State for the Home Office, mobilised this frame link by stating that there “is nothing more damaging

267 Ibid., col. 751.
268 Ibid., col. 753.
269 Ibid., col. 765.
270 Ibid., col. 734.
271 Ibid.
272 Ibid.
273 Ibid.
274 Ibid., col. 760.
275 Ibid., col. 765.
276 Ibid., col. 769.
to the interest of genuine refugees and nothing more damaging to community relations than for the idea to get about that our hospitality was being exploited and nothing was being done about it”. He moved this frame formation to another level and introduced the [threat] element, so that one finds:

[pressure] necessity] practice]

+

[bogus asylum] threat]

+

[community relations]

Mr. Waddington saw “the morale must be that we must stop asylum abuse before it gets too strong a hold or it will overwhelm us as it has threatened to overwhelm others.” He once more gave a hint to the utmost necessity for this Bill as the issue in question may constitute a threat in the near future.

A sitting by the Whole House Committee on the 26 March 1987 continued in these established frame formations that were opposing each other in the second reading in the House of Commons. The amendment of No. 2, page 1 line 16 of the Bill, introduced a new section 1A which said “No liability shall be incurred under subsection (1) above in respect of any person who after arriving in the United Kingdom and applying for asylum is given exceptional leave to remain.” As Mr. Dubs elaborated, it would give the “airlines and other carriers at least some incentive to carry to his country somebody who does not have the required documentation if the airline or other carriers has good reason to believe that the person, on arrival here and plying for asylum would be given exceptional leave to remain”. Herewith the above frame composite of [refugees] was put into legal practice. The closely linked frame formation of [international law] + [tradition] was accordingly supported by this group of actors. Mr. Dubs was convinced that by “passing the Bill we are likely be in breach of the United Nations convention”, while Mr. Raison hinted again on the “importance […] to maintain our tradition of liberality in the treatment of refugees”. Mr. Corbyn underlined this view that “the British Government supports the United Nations Convention on Refugees and the work of the UNHCR as they claim to”. Several specific cases were described as to illuminate this frame formation. Mr. Corbyn referred to the situation of Chilean refugees

277 Ibid., col. 779.
278 Hansard, House of Commons, Whole House Committee, 26 March 1987, col. 585.
279 Ibid., col. 586.
280 Ibid., col. 591.
281 Ibid., col. 596.
fleeing from the Pinochet regime\textsuperscript{282} while Mr. Meadowcroft underlined the situation of ended civil wars in Africa or Bangladesh and the corresponding aftermath of such civil wars\textsuperscript{283}.

Opposed by this committee, Mr. Waddington used the formerly constructed frame formation by his coalition of actors, and added another element to [pressure] necessity] practice] which was the component of [effectiveness] or [pre-effectiveness], thus:

\[
\text{[pressure] necessity] practice]}
\]

\[
+ \]

\[
\text{[bogus asylum] threat]}
\]

\[
+ \]

\[
\text{[community relations]}
\]

\[
+ \]

\[
\text{[effectiveness]}
\]

He forwarded this element pointing to the fact that “since the Bill was published and since we announced that carriers bringing people here would be liable to penalties from midnight on 4 March, the number of people being brought here with forged and mutilated documents or without documents has decreased enormously”\textsuperscript{284}. The previously established frame formation by this coalition and the objections by Mr. Waddington towards moved amendments on several counts, proved to be powerful, so that the Bill was reported by this Committee without a single amendment and was ordered to be read for the third time.

The House of Lords in subsequent sittings on the 7 May and the 12 May 1987 followed the premises of this increasingly dominant frame formation. Several amendments were once more considered, some were changing technical terms such inserting “sum not exceeding £ 1,000”\textsuperscript{285} in order to set a limit to the fining of carriers, but some such amendments moved by the opposition were of a more fundamental nature. Among the latter, was the amendment No. 7 which said “No liability shall be incurred under subsection (1) above where a carrier has reason to assume that to refuse to carry would thereby place the intended

\textsuperscript{282} Ibid., col. 602.
\textsuperscript{283} Ibid., col. 592.
\textsuperscript{284} Ibid., col. 606.
\textsuperscript{285} Hansard, House of Lords, 12 May 1987, col. 545.
passenger in grave or immediate danger”.\textsuperscript{286} It once more issued the danger of refusing genuine refugees as it was mobilised by a coalition of actors in the House of Commons where it likewise found supporters such as Viscount Tonypandy who interlinked the [tradition] element by referring to the Bill as being “not in line with our tradition to slam the door in their faces”,\textsuperscript{287} as well as Viscount Buckmaster who followed Viscount Tonypandy in his argument by emphasising “that we must draw on our reputation as a humanitarian country”.\textsuperscript{288} However, the dominant frame formation as elaborated, was effectively supported by Lord Denning among other members of the House, so that all amendments were rejected leaving the Bill reported without amendment on the 7 May.\textsuperscript{289} Likewise, the outcome of the sitting on the 12 May, the Bill was passed without amendment.\textsuperscript{290} It received Royal Assent on 15 May 1987.\textsuperscript{291}

4.3.6. The Immigration Act 1988

Shortly after the enactment of Immigration (Carriers’ Liability) Act 1987, the Immigration Bill was published and laid before the House of Commons on the 5 November 1987.

Regarding irregular immigration, the Bill incorporated a deterrent effect by restricting the right of appeal against deportation (Clause 3), which said “if a person claimed a right of abode arrives in the UK without such document he may be treated as a person who requires leave to enter, and will not have a right of appeal against such a decision.” Clause 5 made overstaying an offence, i.e. persons overstaying were liable to removal. At the same time, Immigration Officer’s powers were extended by Schedule 5 (2A), which said an “Immigration Officer may detain any passport or other document produced […] until the person concerned is given leave to enter the UK or is about to depart or be removed following refusal of leave”.\textsuperscript{292}

The second reading in the House of Commons took place on the 16 November 1987. It constituted the first major statute designed explicitly to regulate immigration control after the Immigration Act 1971 and the fashion of this new Bill was made clear from the beginning as put by the Secretary of State for the Home Department, Mr. Hurd, “it is a realistic view”.\textsuperscript{293} In broad terms, the debate was shaped by a frame conflict between [effectiveness] realism] opposed by a [racism] populism] frame formation.

Mr. Hurd set the fundament of the arising [effectiveness] frame formation which was based on elements such as [immigration pressures] and [community relations]. A “further mass inward movement […]

\textsuperscript{286} Hansard, House of Lords, 7 May 1987, col. 267.
\textsuperscript{287} Ibid., col. 269.
\textsuperscript{288} Ibid., col. 270.
\textsuperscript{289} Ibid., col. 291.
\textsuperscript{290} Hansard, House of Lords, 12 May 1987, col. 575.
\textsuperscript{291} Hansard, House of Lords, 15 May 1987, col. 821.
\textsuperscript{293} Hansard, House of Commons, 16 November 1987, col. 779.
would not be in the interests of the ethnic minorities themselves”, since it would “increase social tension, particularly in our cities”. A new [effectiveness] frame element was also supported by Hattersley MP who referred to “a decent system” that allowed “cases to be examined on appeal on compassionate grounds”, but should make it “absolutely clear that […] the wilful, the casual, the frivolous or the cynical overstayers […] will be subject to removal”. Watts MP joined the [community relations] composite by drawing attention to his own community and its attitude towards overstayers. He “received more representation from Asian constituents that our action in dealing with overstayers is too lax than […] from any other section of the community.” He reiterated that his constituents emphasised such control as a precondition for harmonious community relations. Janman MP exchanged the terms of “overstaying” and “illegal migration” and pointed to these people which “many people in this country are incensed about”, while fostering this “degree of swamping” by referring to “figure” that “is unknown”, but “we have now taken millions of legal and illegal immigrants” alluding on the fact that the “Bill will lead to further reduction in the number of people coming in.” Ashby MP agreed to this coalition group and forwarded a new and efficient element of [injustice] to the frame formation, so one can find:

[effectiveness] immigration pressures] community relations]

+

[community relations]

+

[injustice]

He embedded this new element of [injustice] by coming back to the realist approach of “closing loopholes and removing the manifest of unfairness”, while this unfairness was done by “everyone who overstays […] breaking the law and jumping the queue”. This he mobilised through an analogy by Martin Luther King Jr. “who said that injustice for one is injustice for all”. The Secretary of the State, Mr. Renton, fostered the formation that promoted justice, and equalized “illegal entry” with “overstaying”

294 Ibid.
295 Ibid., col. 793.
296 Ibid., col. 805.
297 Ibid., col. 808.
298 Ibid., col. 814.
299 Ibid., col. 812.
300 Ibid., col. 820.
301 Ibid.
since it “is a criminal offence and we see no reason why the same deterrent effect, both prosecution and possible deportation” should be treated differently.\footnote{ibid., col. 848.}

The oppositional coalition such as Sore MP, forwarded the [racism] composite by declaring the Bill as “far from promoting racial harmony, it will increase the sense of distrust and alienation among the immigrant community”. Abbot MP symbolically underlined this frame composite by talking about the “‘plague’ that the Bill is intended to address, the ‘plague’ of overstayers”, since the “Bill makes overstaying a crime.”\footnote{ibid., col. 816.} She demobilised the [community relations] element by forwarding [racism] and suggested that “potential overstayers: they are the black and other ethnic minority residents - the police will be given a licence to harass those people”.\footnote{ibid.} She continued this exclusionary attitude by emphasising “the constant piercing together of incoherent and racist immigration laws that serve no real purpose apart from propaganda heights tensions and stress and makes people feel that they are unwanted”.\footnote{ibid., col. 817.} The [racism] frame component was linked to [rights] and one could find:

[racism] + [rights]

Madden MP, Vaz MP as well as Randall MP mobilised the frame element of [rights]. Randall MP specified this claim and drew the House's attention to “deportation”, which “can arise through prosecution in the courts, as overstaying is a criminal offence.” But in this case “no effective right of appeal would exist as compassionate circumstances would not be taken into account”, which results in “more overstayers would be criminalised and fewer would have the full rights to appeal.”\footnote{ibid., col. 847.}

Lastly, oppositional [racism] and [rights] frame components turned out to be successful to some extent since the House was almost evenly split, namely 258 (Ayes) vs. 221 (Noes), however the agreements were sufficient to hand the Bill to the next stage.

Between the 24 November and 26 January 1987, the Standing Committee ‘D’ had 22 sittings, which represented a thorough revision by going through each Clause of the Immigration Bill. Frame conflicts
during these sittings were similarly structured and mainly confirmed the previously established frame formations that had emerged in the earlier debates.

Several Clauses were unsuccessfully opposed along the lines of promoting the extended frame formation of [race] + [rights] and it was from time to time fostered by the element of [inhumanity] as by Randall MP\(^{307}\), Abbot MP\(^{308}\), and Michael MP\(^{309}\), thus:

\[
\text{[race]} + \text{[rights]} + \text{[inhumanity]}
\]

The [realism] component was mobilised by hinting on economic factors such as to “enhance our ability to safeguard public funds” as Mr. Renton emphasised.\(^{310}\)

When it came to Clause 4 on “Restricted Right to Appeal Against Deportation in Cases of Breach of Limited Leave”, i.e. overstaying, new framing took place, which addressed more specific legal ramifications that differentiated between the offence of ‘illegal entry’ and ‘overstaying’. This differentiation as it was mobilised by the coalition above led by Mr. Renton who pleaded that “we see no reason why the same deterrent effect” should be treated differently, and therefore was sought to be abolished.\(^{311}\) However, the oppositional group believed, and forwarded along the lines of their established frame formation while supporting this formation by judicial expertise such as the Court’s statements as well as ILPA statements, that this distinction is vital. Members of the Standing Committee rejected this by voting against the amendment of this Clause 4.

Clause 5 was discussed in the same manner as it concerned “Knowingly overstaying limited leave”,\(^{312}\) which was questioned for amendments in terms of the prescribed sanctions or prosecution measures. Randall MP moved the amendment that inserted under No. 38 page 3, line 3, “shall be punishable by fine

\(^{307}\) Hansard, House of Commons, Standing Committee D, 8 December 1987, col. 231.
\(^{308}\) Ibid., col. 235.
\(^{309}\) Ibid., col. 328.
\(^{310}\) Hansard, House of Commons, Standing Committee D, 8 December 1987, col. 238.
\(^{311}\) Hansard, House of Commons, Standing Committee D, 16 November 1987, col. 848.
\(^{312}\) Hansard, House of Commons, Standing Committee D, 14 January 1988, col. 539.
only”, or under No. 37, in page 3, line 42 to insert “a prosecution for this offence can only be brought
once for any one period commencing with the expiry of leave to remain”, which once more depicted this
groups’ frame formation that rendered the Bill as “repressive and unnecessary”. The groups framing
was mobilised by the resulting criminalisation of “this administrative misdemeanour, as a result of the
Bill” as being stated by Michael MP.314

The Secretary of the State, Mr. Renton, rejected such amendments by reinforcing the former framing of
[realism] and referred to above amendments as impracticable, “not thought through” and destroying
“totally the deterrent effect of the availability of prosecution action against overstayers.”315 Similarly, he
demobilised the oppositional frame formation, which aimed to amend further Clauses such as the new
Clause 3 on the “Right of Appeal for Illegal Entrants”.316 All amendments were rejected and the Bill was
handed to the House of Lords accordingly.

On the 4 March 1988, the Bill was read in the House of Lords, where the Lords considered the setting of
the Bill in broader terms and almost all Lords rejected the Bill in their speeches. A vote did not take place
after this reading.

The oppositional frame formation was supported with emphasis on the composites of [rights] and
[inhumanity]. Lord Mishcon and Lord Bonham-Carter drew attention to the fact that as the former put it
“there is no right to appeal now; there was before”317 and this “legislation endows the Home Secretary
with additional discretionary powers; it overturns decisions of the courts; and it does nothing about the
rules” as Lord Bonham-Carter added and continued: “The claim so often is that the Bill is firm and fair. I
would describe it as profoundly prejudiced, profoundly inhumane and unfair”.318

The Lord Bishop of Ripon confirmed that the Bill “removes an essential safeguard for those threatened
with deportation” and Lord Renton referred to their duty to “secure decent conditions for immigrants
whether they are refugees or other immigrants”.319 In fact, Lord McNair also supported this coalition and
tried to revive an element from a frame formation that was mobilised in the Immigration (Carriers’
Liability) Act 1987, which was of [tradition]. He reminded the Lords that “a man fleeing for his life
would never even start on his flight to safety, never have the chance to put his case to
our officials or
appeal to our surely honourable tradition of hospitality for the oppressed”320 and therefore he appealed to
the Lords to keep “a general right of appeal for all asylum seekers against hasty administrative

313 Ibid., col. 540.
314 Ibid., col. 542.
316 Hansard, House of Commons, Standing Committee D, 26 January 1988, col. 762.
318 Ibid., col. 375.
319 Ibid., col. 381.
320 Ibid., col. 389.
deportation”.\textsuperscript{321} This he linked with [rights] and underlined that this “general right of appeal is the basic policy of the United Nations High Commissioner for Refugees: the clear doctrine of non-refoulement”.\textsuperscript{322} Lastly and in agreement, Lord Pitt of Hampstead added another element of [community relations] as more commonly mobilised by the other coalition - likewise in the recently enacted Immigration (Carriers’ Liability) Act 1987 – he announced: “My God! We cannot do more harm to community relations than by making people fearful of their future”.\textsuperscript{323} He continued that “making overstaying a continuous criminal offence. This can have serious consequences for police and community relations.”\textsuperscript{324} It appeared an utterly different picture in this House than in the Lower Chamber.

The Bill was passed on to the Whole House Committee of the Lords, which took place on the 21 March 1988. Here single amendments in motion were discussed. The session evolved and became relatively technical and specific on the wording of the Bill. However, a similar picture as predetermined in the previous reading continued in this session. Both framing formations were mobilised in the same fashion, however, the [rights] and [inhumanity] frame composites tended to be more powerful in the House of Lords. The voting did not reflect this explicitly, since all but two amendments were rejected. The formerly criticised Clause 5 was moved by Lord Hylton, which aimed at the restriction on the right of appeal not only for ‘regular’ immigrants but also for asylum seekers.\textsuperscript{325} The amendment deleted this provision as agreed by the House. Lord Pitt of Hamstead once more effectively extended the frame formation by the composite of [community relations] so one could find in the end:

\begin{align*}
\text{[racism]} & \quad + \\
\text{[rights]} & \quad + \\
\text{[inhumanity]} & \quad + \\
\text{[community relations]} &
\end{align*}

\textsuperscript{321} Ibid., col. 390.  
\textsuperscript{322} Ibid.  
\textsuperscript{323} Ibid., col. 387.  
\textsuperscript{324} Ibid., col. 388.  
\textsuperscript{325} Hansard, House of Lords, 22 March 1988, col. 132.
He reiterated that “making overstaying a continuing offence” represented “danger to the relationship between the black community and the police.” Lord Mishcon backed this view and drew attention to the Home Office that had “quite some draconian powers”. Another part of the Clause was amended by the insertion on page 3, line 37: “but a person shall not be prosecuted under that provision more than once in respect of the same limited leave”. It made clear that prosecution may only brought once in respect of the overstayer in any period of leave.

Nevertheless, the frame formation was partially successful by amending the Bill, mainly as it seemed by adding the element of [community relations] to the formation that alluded to possible social disruptions and recurrent tensions among executive authorities and ethnic minorities. The Bill was reported with amendments and passed to the third reading accordingly. It received Royal Assent on the 10 May 1988.


4.4.1. Socio-Historical Background 1990 - 1999

A political epoch ceased when Thatcher was forced out of office in mid-term due to the Conservative Party’s fear that they would not be re-elected in the next general election under her rule. John Major, the Conservative Party's choice as her replacement, became Prime Minister and people expected him to play the role of Thatcher’s son. His modest style made the public think that he and his policies were simply the embodiment of Thatcher with a human face (Clarke, 2004).

The 1990s started off with a firm increase in unemployment rates, which moved up from 6.8 per cent in 1990 to 10.4 per cent in 1993. This trend changed from 1993 onwards as unemployment rates steadily decreased to 6.1 per cent in 1998 (Nickell, 1999).

More specifically, the 1991 Census revealed an unemployment rate of 10.7 per cent for white males, which was nearly half of the rate held by ethnic minority males (20.3 per cent), while the rate for white females was even lower (6.7 per cent) in comparison to ethnic minority females (15.5 per cent). This varied strongly among groups of ethnic minorities. For instance, the unemployment rates of Pakistani males (28.5 per cent) and Bangladeshi males (30.9 per cent) were significantly higher than the rates of Indian males (14.4 per cent). The rate for Afro-Caribbean males was 25.2 per cent, likewise significantly higher than white males (Office for National Statistics, 1992).

326 Ibid., col. 133.
327 Ibid.
328 Hansard, House of Lords, 12 April 1988, col. 1020.
329 Numbers in Nickell (1999) were based on the Labour Force Survey quarterly bulletin.
On the 16 September 1992, the so-called ‘Black Wednesday’ signalled the collapse of the British sterling resulting from a poor performance over past decade in the Exchange Rate Mechanism (ERM). Interest rates were briefly raised to 15 per cent, before the sterling departed finally from the ERM. This devaluation of the sterling unleashed conflicts in the Conservative Party since the Government lost approximately £3-4 billion in a matter of hours, which Major marked himself as a “great defeat” (Major, 1999: 334). People were disappointed with the Government’s macroeconomic management inabilities.

Internal political spheres were overshadowed by an increase in crime and the resulting public perception of crime and law and order in general. Vigilante groups were founded all over the country and the 30 August 1993 Gallup Survey revealed that 75 per cent of people thought vigilante action was justified. Confidence in police forces and their executive powers were reduced to a minimum. A majority of the people seemed to prefer taking law into their own hands. The Sheehy Committee, chaired by Sir Patrick Sheehy, recommended a reformation and modernization of the police service by introducing ‘market forces’, i.e. performance-related pay, into the police service. It provoked the biggest protest rally in police history.

Internal concerns were likewise attracted to Northern Ireland, due namely to the IRA accredited explosion outside Downing Street during a Committee discussion held by Major and his Cabinet paradoxically regarding Iraqi terrorism. The bomb attack demanded no casualties, however, ongoing violence from both sides following the attack was ceased by the 31 August 1994 when the Provisional IRA announced a cease-fire. Nevertheless, peace was a relative term; between August 1994 and November 1995, the IRA carried out 148 attacks in comparison with the Loyalists, who committed 75 attacks. Nine fatalities were counted, which was a relatively low number when comparing this with 61 fatalities in 1994 and 84 in 1993 (Major, 1999).

Foreign affairs were dominated in the early 1990s by the break-up of the Soviet Union and the beginning of the Gulf Crisis. Major interests were driven by the fact that Iraqi troops invaded Kuwait possessing approximately 13 per cent of the world’s proven oil reserves. The UK joined the military operation pushed forward by the US and sent 45,000 British service personnel in the Gulf.

Another source of insecurity at the foreign policy level, was produced with regards to the Civil War in the Balkans in which British military forces became more heavily involved. After the recognition of Slovenia and Croatia’s independence in December 1991, and Bosnia’s by referendum in March 1992, nationalist groups of the territories were at war. From February 1994, British and Western interventions were intensified, which was supported by Major and Hurd, however, Clarke and Portillo had mixed feelings about the issue and as Major himself put it, the Defence Secretary Rifkind was dubious (Major, 1999).
Civilian misery forced people to flee from their homes to other countries such as Germany, France and the UK. A peace agreement was concluded on the 21 November 1995 after a bitter civil war imbued with highly controversial foreign political actions by ‘Western allies’.

Indications of cultural tensions within the UK among groupings became apparent by the publication of the *Satanic Verses* by Salman Rushdie in 1988, but the book’s waves reached far into the 1990s. Some members of the British Muslim community were outraged by Salman Rushdie's book, which amounted to incidences such as its public burning in Bradford on the 14 January 1989. Demonstrations in London followed. Rushdie was sentenced to death *in absentia* by Ayatollah Khomeini of Iran. In the view of the British public, the book gained wide discussion, and as it was used and misused by certain groups, since the book questioned the compatibility of Islamic belief with citizenship in a European country. Rather extreme voices by the British Muslim community such as by the *Hizb al-Tahrir* Party responded by publishing a declaration that said “Muslims do not believe in integration”. This revived earlier problematic discussions from the 1970s when Enoch Powell made racist proclamations, including “to see the River Tiber foaming with much blood”.

At the same time, the UK was troubled by the developments regarding the ‘European Adventure’. Concerns that the UK will be swallowed up in a European conglomerate was imbued by critics such as Charles Wardle, incumbent Minister for the Home Office, who believed “Brussels threatens to push this country down a dangerous road” in September 1995. Especially when it came to the issue of immigration and asylum policy-making competences, the British Government saw their sovereignty diminishing.

In the later part of 1995, the Major Government announced further legislations on asylum seekers. As the deterrence strategy of the Asylum and Immigration Appeals Act 1993 did not turn out to be effective, since applications continued to rise unabated, the Government asked an accountancy firm KPMG Peat Marwick to carry out a survey of how to optimize the effectiveness of this legislation (KPMG Peat Marwick, 1994). It was recommended that additional primary as well as secondary legislation should be brought on its way. The announcement of tighter policies on asylum seekers by Michael Howard, incumbent Home Secretary, and Peter Lilley, Secretary of the State for Social Security, was not only received enthusiastically by members of the Conservative Party, but it was in conjunction with arising scepticism towards the ‘European adventure’ perceived likewise positively among members of civil

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332 *Daily Mail*, Numbers Seeking Asylum Soar in Britain and Fall in Europe, 26 September 1995.
society at the time. The Joint Council for the Welfare of Immigrants (JCWI) has denoted it as the “most extreme vote-orientated immigration legislation since 1960s”.

By 1995, the position of Major and the Conservative Party became more and more precarious. In the 1994 European election, the Conservative Party slumped to 27 percent of the national vote. These and other premature signs during by-elections stood for the inevitable takeover of the Labour Party in 1998.

4.4.2. Asylum and Immigration Appeals Act 1993

The Asylum and Immigration Appeals Act 1993 has a rather long history. An Asylum Bill 1991 was introduced into parliament on the 21 November 1991; it went through various stages, failed however to reach the statute books, i.e. it was not adopted as an Act. The first attempt at a review of the UK asylum system ran into severe criticism, especially in the House of Lords and from other stakeholders such as the Law Society, the Bar Council, Amnesty International, the British Refugee Council and the Joint Council for the Welfare of Immigrants (JCWI). It was eventually overtaken due to the dissolution of Parliament on the calling of the UK General Election in April 1992. The absence of specific legislation was seen by some stakeholders as being substituted by a system of informal processes that take place in Government departments. This first attempt of renewing the asylum system was then achieved by the Asylum and Immigration Appeals Act 1993. Also part of the preparation phase of this significant Act were the developments at the European level and inner political reactions to these developments on a formal political level. The date for the completion of the Single European Act 1986, which was set to be accomplished in 1993, was approaching, and concerns about the ‘free movement of people’, also in the view of the Schengen Agreement from 1985, were growing.

Numerous issues and questions arose from this project of the European ‘four freedoms’ in relation to the British view on immigration and irregular immigration. The issue of community relations gained a central role. [Community relations] became a pivotal composite of the above frame formations within the policy processes of the Immigration Act 1988. It was intensely used by a group of actors that was ‘in charge’, i.e. closer to governmental circles. A report titled ‘1992: Border Control of People’ prepared by the House of Lord’s Select Committee on the European Communities (published 9 November 1989), contained an extensive questioning of external experts and stakeholders. It was reported that “much tighter police controls […] would be far more damaging to civil liberties and community relations”.

One should recall which role external control, i.e. Visa and border checks, were traditionally playing in

334 Amnesty International (AI), 1990, United Kingdom: Deficient Policy and Practice for the Protection of Asylum Seekers, AI ref. AIBS/RO/1/90.
335 1) free movement of goods; 2) free movement of capital; 3) free movement of services; 4) free movement of persons.
the immigration control system of the UK. Therefore the Prime Minister and the Home Secretary have repeatedly emphasised their view “that frontier checks will continue to be useful, indeed an indispensable part for the protection for our citizens against the evils of terrorism, drug trafficking and organised crime, and also against illegal immigration”.

Nevertheless, [community relations] was in this report officially extended to the understanding of the “protection” of civil society being threatened by “evils” which included illegal immigration.

A report that was published in the same month in 1989 supported the emerging importance of this frame composite [community relations]. The House of Commons’ Home Affairs Committee published a report on ‘Racial Attacks and Harassment’ on the 22 November 1989 in which the extent of this issue was held unknown, since “it was unclear whether or not the occurrence of racial incidents was increasing or decreasing”. However, the Home Office found serious racially motivated offences and recommended “that the Home Office monitor the development of multi-agency co-operation to tackle racial attacks and harassment and ensure that the appropriate support and encouragement is provided to such multi-agency approaches”.

Although from a different angle, the urgency of the issues encompassed by the frame element [community relations], was again fostered, and its effectiveness will be shown in due course with regard to the discourses, which were found in the policy processes of the Asylum Bill 1991 and the final Asylum and Immigration Act 1993.

The Asylum Bill was first introduced on the 1 November 1991 and went through an extensive debate in the House of Commons on 13 November and 21 January 1992; in the meanwhile it underwent the subsequent scrutiny of eleven sittings in the Standing Committee from the 26 November to the 11 December 1991. Frame formations took place throughout these sittings and debates became intensified in the Committee of the Whole House in the Upper Chamber on 10 February 1992.

In general, the Asylum Bill 1991 addressed aspects of the asylum seekers’ reception procedures (more details in the Asylum and Immigration Appeals Bill below), which were closely related to irregular immigration control including the new Clauses on fingerprinting and housing, detention and deportation as well as carrier sanctions (once more additionally regulated by SI 1991/1497). Under special scrutiny was the Clause 2 that facilitated fingerprinting of the asylum seekers. This clause were particularly contested and led to opposing frame evolutions.

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337 Ibid.  
338 Ibid.  
340 Ibid., p. xiv.  
The group supporting the Bill admitted that “fingerprints, in Britain, suggest that a person is, if not guilty of a crime, at least suspected of one”, as Mr. Lloyd put it, but “in some parts of the world they are the routine means of recording identity” and this “will maintain our system’s integrity”. Earl Ferrers supported the integrity aspect by referring to the “obligations to genuine refugees, but we cannot allow the misuse of asylum procedures.” The following frame formation was mobilised by this group:

[bogus asylum seekers]

+

[abuse]

+

[numbers]

In contrast, the opposition mobilised the formerly successful frame formation, which was the following:

[refugee]

+

[crime]

+

[community relations]

Lord Richard warned that the Bill “undermine(s) the existing rights of genuine asylum seekers” and in “many cases this could effectively impose a death sentence on the refugees”. At the same time Clause 2 that included fingerprinting “criminalises those seeking asylum” since “it puts refugees on the same footing as those facing criminal charges”.

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344 Hansard, House of Commons, Standing Committee B, 28 November 1991, col. 60.
345 Ibid.
346 Ibid., col. 61.
349 Ibid., col. 465.
350 Ibid.
These frame elements were continued in the subsequent re-introduction of the Asylum Bill, the Asylum Appeals and Immigration Bill, which was first introduced into parliament on 22 October 1992. In sum, this Bill envisaged the removal of the right of appeal from those people seeking to come as visitor and short term students (Clause 1), however; it provided a definition of a claim of asylum and granted asylum seekers a right to remain in the country pending appeals (Clause 6). It sought to amend the appeal process by abbreviating the process in cases which are certified to be without foundation, so-called ‘fast-track’ or accelerated appeals process (Clause 8 and sch. 2, para. 5). The Immigration (Carriers Liability) Act 1987 was meant to get extended to the liability of carriers transporting persons who are required to have transit visa or who are specified by order. Most significantly in relation to irregular migration or potential irregular migrants, the Bill suggested empowering Immigration Officers to fingerprint asylum applicants and their dependants (Clause 3) and designed a new housing scheme that facilitated an improved capacity of control (Clause 4 and 5).

On the 2 November 1992, the House of Commons debated the second attempt of legislation establishing a new asylum system and using the words of the Secretary of the State Mr. Clarke, this new legislation was geared towards the “identification of genuine applicants for asylum”.

Mr. Clarke set out a complex frame formation, which was built on the elements of the earlier frame formation that were used in the process of the failed Asylum Bill 1991, but the subsequent formation was substantially enlarged. The centre of the new frame formation was [bogusness], which Mr. Clarke made clear from the beginning that “a long and honourable tradition […] of offering political asylum” was granted “to those who flee […] from a country where they face individual prosecution”. Apart from establishing [bogusness], he demobilised the former frame element of [tradition] forwarded by the opposition by emphasising that the opposition in fact misunderstood this “honourable tradition” since it only included “genuine asylum seekers”. Mr. Clarke went on and included past frame elements such as [race relations] as well as [numbers] by referring to “strive to improve race relations” through a “system that restricts manageable numbers of the influx of people from overseas”. This he linked to the [bogusness] composite and synchronised it with “not entitled to be here”. Lastly, he added [realism] as he pointed to the “population of our inner cities, our urban poor and our homeless who will be the main sufferers from misguided liberalism”, so one can find a frame formation of:

[bogusness] non-entitled]

352 Ibid., col. 21.
353 Ibid.
This structure was supported by a range of coalitional actors who actively forwarded this formation, however, its structure was transformed and new elements were added. At a later stage, [bogusness] was more intensively related to ‘abuse’, namely the abuse of the British legal system. Mr. Clarke drew attention to the necessity of the recruitment of “trained additional staff” and “nearly 500 civil servants doing asylum work” in order to “combat multiple applications and abuse”\textsuperscript{354}. He went on and referred to the need of a “streamlined procedure for dealing with manifestly unfounded claims” and linked such procedural demands to the element of [speed], i.e. an acceleration of the procedures as a symbol for effectiveness\textsuperscript{355}. “We cannot continue with this complexity of the procedures that we operate” and preserve “our ability to move quickly in clearly unfounded cases”\textsuperscript{356}.

Ward MP supported this emphasis and added another composite of [social system] and its burden due to [numbers], so one can find:

[bogusness] abuse

+  

[speed]

+  

[social system]

\textsuperscript{354} Ibid., col. 30.  
\textsuperscript{355} Ibid., col. 31  
\textsuperscript{356} Ibid., col. 32.
He underlined the fact that “many people use a claim for asylum as a means of evading immigration controls” and “an unrestricted influx of additional people would not only overload our social system but cause resentment among the population”, which happened on a basis that he felt was “taking advantage of shortcomings in our law”. 357

In terms of procedural matters, he agreed that “we must speed up the application and appeals procedure” 358 and at the same time he pointed out “the two major loopholes”, which were people “arriving with forged documents or no documents” and thus “fingerprinting will clearly establish the identity of those people”, and second “all too often, short-term students (becoming) long-term residents”. 359 Duncan-Smith MP likewise joined this coalition who put more emphasis on [speed] and [numbers] components. He alluded to the “national picture” and linked this picture with “figures” which “are worrying”. It was not the sheer quantity, but he added “the number of asylum seekers who have been proven bogus”; “they who put such strain on our traditional tolerance”. 360 Herewith Duncan Smith MP did not only demobilise the former [tradition] frame forwarded by the opposition, but he also justified in his eyes the Bill’s importance by fostering the [speed] element since “it streamlines and accelerates the asylum procedures”. 361

This frame formation was additionally mobilised by Sir Lawrence by referring to the ‘duty to act’ as Government. Thus, he claimed that “by 1991, only one in four was genuine […], if of 45,000 people apply, 40,000 are not genuine asylum seekers, […] surely the British public are entitled to demand that the House does something about that.” 362 Again, this mobilisation of ‘the duty’ was picked up Wardle MP who ensured that

“a reduction in the rights of appeal is not a step to be taken lightly, but if the system is to function effectively and retain public confidence it is essential to ensure that resources can be concentrated on those cases where issues of real substance are involved. A proper opportunity to challenge decisions which are crucial to people’s lives is vital to

357 Ibid., col. 45.
358 Ibid.
359 Ibid., col. 46.
360 Ibid., col. 52.
361 Ibid., col. 53.
362 Ibid., col. 66.
wider confidence in the integrity of our system as well as in the fairness of treatment of individuals.\textsuperscript{363}

It retrospectively demobilised two central frame composites of the frame formation forwarded by the opposition coalition as illustrated below.

The opposition relied on the formerly mobilised frame formation during the Asylum Bill 1991, namely the one constructed around the [refugee] composite, and as Madden MP, drew attention to the danger of removing people into “mass genocide” such as asylum seekers from former Yugoslavia.\textsuperscript{364} The [refugee] frame composite was extended by the formation of a gradually growing construction of new composites. After having targeted to demobilise [speed] as forwarded by the Governmental coalition, he drew attention to the United Nations convention and emphasised the significance of “individual cases (that) should be considered individually, not as part of a group” which was facilitated by the paragraph 10 of the Bill.\textsuperscript{365} This [individual vs. category] composite was linked to [refugee] composite since there were “people who destroy documents for various reasons, that is not necessarily evidence of fraud”, and the refusal of “an application without looking into the merits of the claim” could increase the refusal of so-called genuine asylum seekers. Hattersly MP alluded to another extension of the frame formation which is [race] – however this will play a more intense role in the Whole House Committee debates where single amendments are discussed - by pointing to Clause 9 and the abolishment of “the appeal system because only black and Asian British are affected”\textsuperscript{366}. So one can find:

[refugees]

+ 

[individual vs. category]

+ 

[race]

Another prominent new composite to the central frame composite of [refugees] was introduced by Corbyn MP who forwarded the case of Kurdish, Iraqi and Iranian asylum seekers and the incumbent Government’s interest “in selling arms to those Governments and in maintaining a decent relationship

\textsuperscript{363} Ibid., col. 112.  \textsuperscript{364} Ibid., col. 24.  \textsuperscript{365} Ibid., col. 42.  \textsuperscript{366} Ibid., col. 50.
with regimes that practice torture”. He underlined that “already, serious mistakes have been made and people have been wrongly returned” construing an element of [moral responsibility]. At the same time Corbyn MP demobilised Clause 3, which facilitated categorical fingerprinting of asylum seekers, by creating a [criminalisation] composite. He called Clause 3 “criminalising” and a “disgraceful section”, which ended in the policy frame formation of:

[refugees]
+
[moral responsibility]
+
[individual vs. category]
+
[race]
+
[criminalisation]

This formation was supported by Ainsworth MP to whom it appeared that “we are in the process of building a fortress Europe. A few years ago we criticised communist regimes for the erecting an iron curtain. It appears that we are now determined to create one of our own and turn our backs on ordinary human beings, in desperate circumstances”. Gordon MP joined this frame coalition and referred to “European countries which have taken more refugees than us continue to have a more humanitarian approach” and went on mobilising [moral responsibility] by shedding light on “a small group of people who arrive here traumatised and who have gone through hell only to put through further hoops, which is quite unacceptable.”

367 Ibid., col. 63.
368 Ibid.
369 Ibid.
370 Ibid., col. 74.
371 Ibid., col. 75.
It was more vigorously defended by Khabra MP who denoted the whole Bill a “travesty of natural justice, and it is outrageously against human decency and human rights.” Watson MP likewise feared that “fingerprinting is equally lacking in natural justice”, while Jackson MP reflected on ‘what is reasonable necessary’ (by quoting the creators of the Bill) and rejected once more “to force asylum seekers to provide his or her fingerprints”. In an illustrative manner, Gapes MP mobilised [moral responsibility] by making a comparison between the current oppressive regimes and the former Nazi regime. “There are Kurdish refugees in my constituency with bodies riddled with bullets. They come to see me in wheel-chairs. Some of them have artificial limbs. They were shot up by Saddam Hussein.” Abbot MP underlined this comparison and stated “when the Jews came to the east of London from Russia and Eastern Europe, there was no talk of economic refugees [...] they were seen [...] as people fleeing from genuine fear.” Simpson MP joined this coalition by elaborating on “the real meaning of humanitarian support and the human conscience operating in a day-to-day context”, while Allen MP stated: “may God forgive you for these consequences” which he feared the Bill would eventually deliver.

The question put in the reading of the Bill for the second time divided the House by 321 (Ayes) and 276 (Noes), which handed the Bill to the Whole House Committee.

On the 11 January 1993, the debate in the Whole House Committee of the House of Commons on single amendments took place. Both groups followed their formerly constructed formations, however some amendments shall be elaborated on due to their close relation to the focal issue of irregular migration.

The main issues were set out by the main actors of the frame coalitions. Mr. Clarke, the Secretary of the State for the Home Department, started out illustrating the core of the frame formation which was [abuse] and [speed]. From the oppositional coalition Mr. Blair accomplished the same for their frame formation where the focus was directed towards [refugees] and [moral responsibility], which he mobilised by referring to the term bogus that “does not merely cover claims that are made in bad faith”, and “carefully to examine the basis upon which the judgement is made”, while pointing to the need of binding such judgements to the “rules of natural justice”. Moreover, Mr. Blair mobilised their scheme and demobilising the [abuse] and [speed] frame components by hinting that “matters are not always black or white [...] not all bogus refugees are obviously bogus” since “in between there is a grey area for which it

372 Ibid., col. 78.
373 Ibid., col. 86.
374 Ibid., col. 90.
375 Ibid., col. 97.
376 Ibid., col. 102.
377 Ibid., col. 101.
378 Ibid., col. 107.
380 Ibid., col. 642.
is necessary to have a proper system to determine whether people fall within the terms of the convention” (UN Convention). While underlining a ‘proper system’ he drew attention to the [individual vs. category] composite of the frame formation.

In particular, New Clause 3, New Clause 5, Clause 3 and Clause 9 were of special interest in the light of their contents as amended by the opposition.

The New Clause 3 provided a basis for the right of appeal against hindered or ‘unlawful examination’ of the asylum seeker on her or his arrival. Paragraph 1 (c) referred to an “Immigration Officer (conducting) the examination either without authority or in such a manner as to render that examination unlawful”. This New Clause was mobilised by some actors of the oppositional group who for instance, such as Mr. Fraser, pointed to “examples of people being physically prevented from reaching an Immigration Officer in the United Kingdom”. Nevertheless the New Clause 3 was clearly rejected by the Committee as to overwhelming arguments “of the massive problems that paragraph (c) could create for Immigration Officers”.

New Clause 5 was another attempt by the oppositional coalition and their frame formation to put forward legal safeguards against refusal of genuine refugees as it was formerly mobilised. The New Clause 5 was entitled ‘Credibility of asylum seekers’ and directed to complement any asylum and immigration rules, which were secondary legislations and ordered by the Home Secretary. Section 1 stated the “credibility of an asylum seeker may not be judged by reference to any of the following grounds (a) a failure to make immediate disclosure of all material facts; (b) the destruction of documents”. Once more the [refugee] composite was forwarded by emphasising “to make it clear that we should not attempt to define applicants’ credibility by such arbitrary means”; “[…] these are matters of life or death, the significance of such exclusions must be plain for all to see”. It was rejected by a seemingly effective mobilisation of [speed] as Mr. Wardle who depicted the Bill in its current form as to “enable us to move more swiftly through unfounded cases so that we can deal more rapidly”. Section 1 (b) of the New Clause 3, he rejected by again forwarding [speed]. He referred to persons destroying “identification documents en route to, or after entering, the United Kingdom in order to delay removal.”

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381 Ibid., col. 660.
382 Ibid., col. 661.
383 Ibid., col. 662.
384 Ibid., col. 672.
385 Ibid., col. 674.
386 Ibid., col. 676.
387 Ibid., col. 677.
Clause 3 was on fingerprinting and amendment 29 and 30 were extended by the line “except that no claimants or dependants under the age of 16 years shall be fingerprinted”. This phrase has been perceived by the opposition as the “most offensive” and “distasteful” one. The former goal mobilised by [criminalisation] as elaborated above was to delete “fingerprinting at all”, which was at this stage in the process reduced to “no fingerprinting of children”. Also at this stage of the policy process, members of the coalition relied on mobilising the [criminalisation] composite.

Nevertheless, [abuse] was mobilised by Mr. Clarke for instance who depicted cases of deception. He pointed to “applications (that) may involve the same person applying in several different identities”; “nearly two thirds of asylum seekers at ports arrive either with no documents or with forged documents”; “and fingerprinting is a straightforward method”. This method was fostered by the reinforcing link to the [speed] composite stating “all applicants for asylum will have given their fingerprints so that we have a quick and foolproof way of establishing their identity.”

As result of the conflict between the composites of [abuse] and [speed] on the one hand and [refugee] and [criminalisation] on the other hand, the amendment was transformed to: “fingerprints shall not be taken from under the age of sixteen except in the presence of a person of full age”. It demonstrated the rather minimal success of the [refugee] et cetera frame formation by the opposition and the dominant [abuse] and [speed] et cetera construction by the competing coalition group.

Clause 9 was the ‘bogus Clause’, which partially addressed ‘would be visitors’ who might potentially overstay their authorised stay. The Clause removed the right to appeal for people who were refused applications for visitors visas.

Many people are visitors from Commonwealth countries since “hundreds of thousands of people from new Commonwealth countries who are here legitimately” live in the UK and such visitors were required to obtain a visa to come to the UK. “It discriminates against them” as put forward by Mr. Shore. Along these lines, the opposition revived the [race] composite in order to delete Clause 9. Only to name one example, Mr. Winnick drew attention to “the “great harm (that) may come to race relations in this country if people who are settled here, with every right to be here, find that their closest relatives cannot...
By this composite the actors warned to introduce a link between race and irregular migrants, i.e. a warning of stigmatising ‘black illegal migrants’.

In the end, the amendment was rejected by a divided House of 248 (Ayes) and 299 (Noes).

In the third reading of Whole House Committee of the House of Commons, the opposition claimed that “racial animosity” was stirred up “flagrantly” by the party of Government as emphasised by Mr. Maclennan, who “had a peculiar concern about the prospects of the people of Britain being faced with uncontrollable immigration”. Mr. Khabra lastly appealed to the fact of “a fundamental right (that) is being taken away and that is against this country’s history and traditions and its natural justice.” The third reading was however agreed upon by 293 to 243, Ayes and Noes respectively.

The House of Lords debates drew a different picture of competing frame formations. In fact, [tradition] became a decisive composite of frame formations in the Upper Chamber, but also [vulnerability].

First, the Earl of Ferrers reconstructed the frame formation as given by colleagues in the House of Commons. Refraining from building up the full complexity of the formation, he rather focussed on [bogusness] abuse] and [speed] as central composites. The Earl of Ferrers underlined the need for a Bill “to allow applications for asylum in the United Kingdom to be dealt with more speedily” - “the need for a speedy and effective determination system”. He went on claiming that “abuses of the system like this are quite intolerable and must be stopped” where he referred to “many people (who) are now using the asylum process simply as an attempt to circumvent the normal immigration controls” or “people (who) have been claiming asylum in a whole host of different names so that they can fraudulently obtain social security benefits”. On this way he likewise justified fingerprinting “asylum seekers and their dependants”.

In contrast, the following contributions jointly forwarded the formerly established frame composite of [tradition]. Lord Bonham-Carter began to regret that “this country forgets its own traditions in this matter, forgets that from 1823 to the end of the 19th century we did not refuse the entry of a single refugee; nor did we expel a single refugee”, and reminded the House of Lords that “we should not forget the spirit of

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396 Ibid., col. 714.
397 Ibid., col. 732.
398 Ibid., col. 732.
399 Ibid., col. 736.
400 Hansard, House of Lords, 26 January 1993, col. 1147.
401 Ibid., col. 1148.
402 Ibid., col. 1149.
403 Ibid., col. 1147.
404 Ibid., col. 1149.
405 Ibid.
generosity which that tradition embodies”, which “is singularly absent in the terms of this Bill”. The Lord Bishop of Ripon who echoed “the liberal attitude of and policies of a former generation which gave this country a fine reputation (that is) […] now readily being eroded”. The Lord Bishop of Ripon linked [tradition] to [vulnerability] by picking up the reference on fingerprinting children as a “monstrous act” which was made earlier by Lord Bonham-Carter and described children “arriving in the country” as an “exceptionally fragile and vulnerable group”. This is why, he proceeded, “we seek to sustain the reputation of this country as a place where human dignity is maintained and human rights are ensured”.

Lord Ponsonby of Shulbrede supported the composite [vulnerable] by reporting “evidence from the consultant psychiatrist at the local hospital and the Medical Foundation for the Care of Victims of Torture”. Lord Clinton-Davis underlined that these colleagues “who have dealt with the unfortunate, vulnerable people who, for the most part, even if they do not strictly conform to the criteria of the 1951 convention, have lost everything: their country, home, family and friends.” Other actors of this coalition supported the composite [tradition] such as Lord Taylor of Gryfe who posed the question: “[…] giving 1 per cent and not 0.3 per cent of our GDP to the United Nations Relief and Rehabilitation Administration in order that it might carry out its obligation and assist people who were less fortunate than we were at that time. What kind of society have we become? Why are virtues of caring and compassion becoming devalued?”

The Bill was committed to the Whole House Committee where single amendments were discussed with some, but minor, oppositional success of frame mobilisations. The [tradition] frame was linked to a composite of [international responsibility], which represented a transformed version of the familiar formerly mobilised composite of [moral responsibility], i.e. it was picked up and shifted to a widened scope of responsibility.

Amendment No. 1 inserted “[…] to enter or remain in the United Kingdom as a refugee under the Conventions, and to be treated accordingly”. In the view of this amendment, Lord McIntosh of Haringey referred to the relevance of the “United Nations Convention on Human Right, […] the European Convention on Human Rights, the United Nations Convention against Torture and the International Convent on Civil and Political Rights, as well as the United Nations Convention on the Rights of the Child”. He reminded the House that these conventions were “a proper part of our international

406 Ibid., col. 1158.
407 Ibid., col. 1161.
408 Ibid., col. 1159.
409 Ibid., col. 1163.
410 Ibid., col. 1164.
411 Ibid., col. 1214.
412 Ibid., col. 1174.
obligation’. He continued: “instead of entry to the country being a right defined under law and under international commitments – which would be the case if asylum law were properly drafted – we have a much larger number of people being admitted to this country under the rules but simply under the prerogative of the Home Secretary”.

The Lord Bishop of Ripon once more underlined the significance of the amendment since it extended “the definition of asylum in order to include other categories which were not included within the 1951 definition”, having the effect of further mobilisation of the above frame formation and consequently the agreement to the amendment.

The amendment No. 80 was an amendment to the amendment No. 71, aimed to undo the abolishment of the discretion to admit entry outside the rules, i.e. the possibility of an exceptional leave to remain being granted. This abolishment was perceived necessary as the system becomes abused and the “result of this abuse is that the system becomes clogged” for “some people are given exceptional leave to remain.”

In sum, the frame formation including the composites [abuse] and [speed] became effectively mobilised. This led to the agreement to amendment No. 80.

As in the Lower House, the amendments 54B to 54D likewise appeared as contested amendments. These amendments decided upon whether or not Clause 11 shall stand part of the Bill (which put an end to the right of appeal). The debate took place on the 16 February 1993. Similarly to the frame mobilisations in the Lower House, [moral responsibility] or [international responsibility] were less effective with regards to these amendments. Although these frame composites in both Houses already appeared in earlier framing constructions where it was mobilised by the element of the UK being part of an “international community”, it was in this context of these contested amendments 54B to 54D clearly rejected by contents 81 to non-contents 41.

Lastly, amendment No. 20 inserted “if there are reasonable grounds to believe that the person will not report to an Immigration Officer at an appointed time” which aimed at the need to justify a detention order by an Immigration Officer on ‘reasonable grounds’. Thus, it would make the order to detention more complicated to justify, a check and balance was intended. Lord Renton forwarded the [abuse] component to oppose this amendment as “we know that in this country there are always many people who are simply able to get lost, either having come here illegally, or having been ordered to go, decide that they will evade the order”. In contrast, Lord Clinton-Davis demobilised [abuse] by finding “deeply offensive the argument about thought-reading” and pointed to the need of judgements that “are not made

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414 Ibid., col. 539.
415 Ibid., col. 540.
416 Ibid., col. 541.
417 Ibid., col. 572.
418 Ibid.
419 Hansard, House of Lords, 16 February 1993, col. 1169.
421 Hansard, House of Lords, 2 March 1993, col. 628.
capriciously but on the basis of evidence”. He also revived the [vulnerability] composite by referring to “such a sensitive issue it ought to be inscribed in the Bill and not left to the say-so of the thought-reader”. The amendment was finally withdrawn.

The Bill was passed and returned to the House of Commons on the 11 March 1993. The Royal Assent followed on the 1 July 1993.


The issue of identity cards have been a ‘hot iron’ over many years and represented the liberal tradition of the British understanding of the state and its relationship to the individual. Some discussions can be found during World War I, but it was in World War II when there were identity cards issued in the UK, which became compulsory in 1939. Shortly after the war identity cards were withdrawn. In 1978, the Lindhopp Committee on Data Protection proposed an ‘Universal Personal Identifier’, however, it was rejected since it was perceived as a threat to privacy and the freedom of the individual. In 1988, Tony Favell MP unsuccessfully presented a Bill under the Ten Minute Rule that intended to introduce an ID card, which should have helped in the “fight against football hooligans” and “crime in general”.

In February 1989, Ralph Howell MP unsuccessfully tried to introduce a Private Member’s Bill, which required the issuing of a compulsory national identity card. Identity cards were meant to be carried at public places and police were allowed to check on validity, however only, when there was a degree of suspicion in a way the person “is considered to be about to do something unlawful” as Howell MP put it. Howell MP constructed a frame formation that can be illustrated as:

[law and order]

+ 

[crime]

+ 

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422 Ibid., col. 630.
423 Ibid., col. 629.
425 Hansard, House of Lords, 1 July 1993, col. 990.
426 Hansard, House of Commons, 21 July 1988, col. 976-979.
428 Ibid., Clause 4.
429 Hansard, House of Commons, 10 February 1989, col. 1268.
By referring to the fact that “every person ordinarily residing in the United Kingdom shall have a numbered identity cards”, Howell MP underlined the importance of ‘ordinary residents’. He repeated once more at later point in time ordinary residents shall be issued, excluding ‘outlaws’ such as criminals and “illegal immigrants”. Howell MP directly connected these two population groups by pointing to the advantages of identity cards which “would be a tremendous asset to every law-abiding person” forwarding at the same time the [law and order] composite, while at a later stage he emphasised the “deterrent, […] an identity card would help the fight against drugs and against illegal immigrants”.

Sir Boyson MP underlined this frame formation and emphasised the different ‘control approaches in Europe and referred to the “much slacker internal control” in the UK, which made the social security system prone to “people exploiting the system”. At the same time he introduced another composite by extending the [law and order] element to [law and order] security] by revising the incidences in inner cities. In addition, he linked a new composite of [enemy within] to the frame formation. With reference to a former meeting on identity cards – while he did not give a full reference on it – Sir Boyson MP quoted the national chairman of the ‘Townswomen’s Guild’, Ellerton MP, who stated that “we had to have identity cards during the War because of the danger of the Fifth columnists. The malaise of the violence in our society is like a Fifth column, another enemy within the state”. This symbolically left the frame formation supporting the Bill with:

[law and order] security]
+

[crime]
+

[illegality]
The opposing group, which was not confined to one party but was clearly found across party structures, dominantly forwarded a frame formation that was aligned around [liberalism]. This, however, was split up into two perspectives, which were accordingly supported by the members of this oppositional group. One perspective of [liberalism] was forwarded in the sense of [civil liberalism], which was extended by [civil liberalism] state powers] and linked to [state of suspicion], while another perspective supported a [liberalism] individualism] privacy] formation.

As to the first branch of this opposition frame formation, Bennett MP entitled the Bill as “a profoundly unBritish idea which would lead to increased power of the state over the citizens.” He described “the basic, long-held and cherished liberties of the individual and of the English and Scottish law”, which “should aim to provide a system of restraints which, although limiting freedom in some respects, maximises overall freedom”. He clearly referred here to the British philosopher John Stuart Mill. He went on and added the element of [state powers] by concluding that the “more information you include (on the card), of course, the greater the dangers of error, abuse and excessive state powers.” Bennett MP once more supported the element at a later stage by complementing it with the element of [state of suspicion], which he introduced by describing the present situation where “a Police Officer can only stop and require a member of the public to give his name and address if the officer has reasonable grounds to suspect that that person is committing or has committed a criminal offence”, while the Bill “will give Police Officers the right to stop a member of the public to check whether his identity card is valid. That would be a new offence and a new right will be given to the police.” The latter mentioned perspective of [individualism] privacy] element was likewise mobilised by Bennett MP and others as he underlined the consequences as “an expensive nuisance and an invasion of privacy”.

Both branches forwarded with combined strength an additional frame component throughout the policy process, which is the [ineffectiveness] utility] element. Darling MP drew attention to the immigration and nationality department at Harmondsworth, which he visited “this week and saw six French identity cards, only one of which was genuine”. Likewise Bennett MP questioned the utility of the Bill by underlining that the “Bill will not solve crime, but increase it. It will increase alienation too.” The opposing group successfully mobilised the following frame formation accordingly:

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436 Ibid., col. 1285.
437 Ibid., col. 1287.
438 Ibid., col. 1288.
439 Ibid., col. 1293.
440 Ibid., col. 1278.
[civil liberalism] state powers]
+
[liberalism] individualism] privacy]
+
[ineffectiveness] utility]

The Bill was rejected on the same day during the sitting of the House of Commons, 10 February 1989.

In 1990, the Data Protection Registrar expressed his concerns in a Home Affairs Committee report about security of personal data capable of being stored on an identity card. The Committee concluded, however, that it was looking “forward to the development of technology”.441 On the 12 May 1993, David Armess attempted to introduce the Voluntary Personal Security Cards Bill442 under the Ten Minute Rule and in summer 1994, Elleton MP proposed a voluntary ‘smart’ card, which stood for a joint venture between the Government and banks aiming at the reduction of credit cards and social security fraud as well as including provisions fighting terrorism.

A committee report by the Home Office recommended that identity cards will not resolve the Government’s concerns over illegal immigration due to issues of implementing security and immigration polices.443 In July 1994, the House of Lords’ Select Committee of the European Communities published a Committee hearing entitled ‘Visas and Control of External Borders of the Member States’444, which transmitted the growing fear of progress in the policy area of immigration asylum at the European level. The intended plan to remove internal borders in the community territory triggered concern over issuing visa entries and further ‘safeguards’ provided by national law. In a more explicit manner, subsequent discourses in 1995, especially on the House of Commons’ European Standing Committee B, were directly addressing national sovereignty as well as the involvement of security matters that were undermined by the European engagement in such as sensitive policy area.445

In May 1995 the Government published a Green Paper on identity cards, providing alternatives to a national identity card, which included 1) a proposal to use the photographic Driving Licence as a *de facto* voluntary identity card, 2) a separate voluntary identity card, which would also serve as a valid travel card within the EEA, 3) a newly developed card including functions of a voluntary identity card and 4) a compulsory card.

The Government's consultation process between May and September 1995 and the Home Affairs Committee’s inquiry into this issue advantaged “the introduction of some form of voluntary identity card, [...] sufficiently widely held, [...] accompanied by protections for civil liberties”, while lastly the option for a photo-card driving licence with additional voluntary information such as address and nationality was preferred by the Committee. The Government responded to the Committee's report by announcing the intent to introduce such a voluntary card scheme, and promised to publish a draft Bill on the introduction of voluntary identity cards. However, this did not take place.

Another report by the Home Affairs Committee was published on the 26 June 1996, which included a wide range of memoranda and spoken evidences from institutions and organisations across civil society as well as officials who would eventually be involved in the implementation process. Nevertheless, Mr. Evans once more raised the issue on the 25 April 1996, who asked the Secretary of the State for the Home Department, Mr. Howard, if he “is aware that the vast majority of the British want identity cards, not at least to identify the thousands of illegal immigrants who are drawing benefits?” This he reinforced once more on the 6 June 1996 by asking “how many false documents were discovered in 1995 in the United Kingdom being used by people trying to enter the United Kingdom illegally?” The Under-Secretary of the State for the Home Department, Mr. Kirkhope, replied that there were “4,486 forged or falsified travel documents detected” in 1995, which made Evans MP draw attention to the fact that “British people are sick and tired of immigrants who pay nothing and take everything [...]”. Although Mr. Kirkhope congratulated Evans MP on his observations, he rather underlined the efficiency of detecting forged documents by the executive authorities. The recurrent back and forth of the issue demonstrated its contested nature in parliament and beyond. The chances of legislation towards a compulsory or voluntary identity card were far from being introduced or even enacted. The policy issue emerged recurrently over the past decades and was rejected by a dominant policy frame aligned around [liberalism] that held firm.

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449 Hansard, House of Commons, 25 April, col. 570.
450 Hansard, House of Commons, 6 June 1996, col. 705.
451 Ibid.
4.4.4. Asylum and Immigration Act 1996

The main policy options regarding irregular migration can be found in Clause 4-7, but also, and rather indirectly, in Clause 8. Clause 4 and 5 respectively, proposed, “obtaining leave by deception” and “assisting asylum claimants, and persons seeking to obtain leave by deception” a criminal offence. Clause 6 solely “increased penalties” while Clause 7 allocated the “power to arrest and search warrants” to enforcement agents. Clause 8 addressed the matter of illegal employment. Single sections will be presented and explained in the below analysis. The policy options presented to policy actors were to create or prevent an array of new immigration offences which made irregular migration by deception a criminal offence. At the same time new powers for enforcements agencies were to be decided, complementing the approach of legislative restrictionism.

The Bill was introduced in the House of Commons on the 29 November 1995 and the second reading took place on the 11 December 1995. Mr. Howard, the Secretary of the State for the Home Department, presented the Bill and forwarded fundamental frame composites that will pave the way for the overall formation of the frame constructed and mobilised by the group supporting the proposed Bill. These composites were [necessity] urgency] linked to [numbers] and [speed] as well as [bogus] abuse. So one could find:

[necessity] urgency]

+[numbers]

+[speed]

+[bogus] abuse]

As to [numbers] and [speed], Mr. Howard clearly linked these by referring to the fact that “asylum applications are rising rapidly – up from 2,500 a month at the start of 1994 to more than 4,700 last month.
Action is being taken to process claims more quickly.\textsuperscript{452} This being linked to [necessity] urgency and [bogus], Mr. Howard underlined “we cannot ignore the fact that our procedures are being abused” and “the relentless rise in applications is outstripping our ability to deal with them.”\textsuperscript{453} Such underlying ‘powerlessness’ Mr. Howard was alluding to, he reemphasised by appealing to the House that “we must take action”.\textsuperscript{454} The [bogus] composite was once more strengthened by Mr. Howard as he reiterated “deterring bogus asylum applicants” mobilising specifically Clause 4 and 5 which were “measures […] carefully aimed at persons who seek to profit from the plight of others.”\textsuperscript{455} Mr. Howard mobilised the [bogus] elements by stating that ‘racketeering is a growing problem’ and linked it again to [numbers] as he pointed to “110 reported incidents, resulting in the arrest of 171 facilitators in cases involving 501 illegal entrants.”\textsuperscript{456} Greenway MP supported these elements by stating that “the system is in a terrible mess and urgent action is needed”,\textsuperscript{457} while Marlow MP mobilised [numbers] by asking, and indirectly adding another unknown category (absconded asylum seekers), if “any indication of the proportion of those who are […] absconded and do not turn up” would be available.\textsuperscript{458}

Oppositional efforts formed a frame formation led by Straw MP who started to mobilise composites such as [liberal tradition], [international obligations] and [race relations]. Straw MP combined these by pointing out that “Britain was the beacon of liberty for those who had been forced to flee their native countries” while this Bill may potentially “deny refuge to entirely genuine asylum seekers, (which) conflict with our obligations under the United Nations treaties, harm the interests of many people from ethnic minorities who are lawfully settled here, and, in so doing, damage race relations.”\textsuperscript{459} He claimed that “the Bill […] is inconsistent with our obligations under the international law.”\textsuperscript{460}

Hattersley MP extended the frame formation by adding the established element of [genuine refugees], which he introduced by pointing out Clause 4, which states that “makes entry to the United Kingdom by deception a criminal offence”, and there “are no exceptions”.\textsuperscript{461} However, he continued, “asylum seekers do not go to embassies and high commissions, queue to apply for visas and then write in the appropriate box, ‘I am applying to the United Kingdom because I am being prosecuted by the Government of the country’ […] if that is to be the invariable rule, many genuine asylum seekers will be prevented from entering the country.”\textsuperscript{462} Thus one could find at that stage, the following frame formation created by the group opposing the Bill:

\textsuperscript{452} Hansard, House of Commons, 11 December 1995, col. 699.  
\textsuperscript{453} Ibid., col. 700.  
\textsuperscript{454} Ibid., col. 703.  
\textsuperscript{455} Ibid., col. 706.  
\textsuperscript{456} Ibid.  
\textsuperscript{457} Ibid.  
\textsuperscript{458} Ibid., col. 707.  
\textsuperscript{459} Ibid., col. 711.  
\textsuperscript{460} Ibid., col. 723.  
\textsuperscript{461} Ibid., col. 727.  
\textsuperscript{462} Ibid.
Madden MP supported the element of [genuine refugees] and extended the formation by another composite; that was [human rights]. He cited the Immigration Law Practitioners Association (ILPA) and pointed out that “this Bill is poorly drafted, ambiguous, uncertain in its ambit and draconian in scope” and concluded “[…] we need sufficient resources to ensure that those who are seeking asylum are dealt with efficiency, promptly, expeditiously and according to natural laws of justice.”

Lester MP introduced another composite which became more and more significant. This was [vulnerability]. He referred to the “horror with which people are confronted”, which was picked up by Cunningham MP who in relation to Clause 4 underlined the case of “Chinese peasants […] (who) are likely to be prosecuted for the fraud that is perpetrated on them by other. That is a disgrace.” This [vulnerability] element was linked to another element which was [criminalisation]. Couchman MP who emphasised that “it is not acceptable that people should be locked up for months in Rochester prison, […] those people have committed no crime, but a purely bureaucratic process keeps them incarcerated.” These two last composites were widely supported predominantly in later stages of the policy process by this group, however, this debate was their first instance of emerging. At this stage of the policy process the following frame formation could be found:

[liberal tradition]

+i463

[International obligations]

+i463

[race relations]

+i463

[genuine refugees]

+i463

+i463

+i463

+i463

+i463

+i463

+i463

+i463

+i463
The Bill was handed to a House of Commons Standing Committee on the 19 December 1995 when the first of nineteen sittings took place. The Bill was scrutinised on a Clause-by-Clause basis. Oppositional forces tried to engage and forward frames in order to alter or eradicate certain Clauses, but also to introduce new Clauses such as Clause 1.

On the other hand, Ms. Widdecombe, the Minister of the State, Home Office, set out the constructed frame formation supporting the Bill and underlined the composites of [necessity] urgency] as well as [bogus] abuse]. She referred to the “growing scale of the abuse of the system and the extent to which it has outstripped our existing and projected capacity to deal with it”, while she went on and that “by abusing the system procedures, people from abroad with no legitimate claim to be here can fend off
removal and secure a prolonged stay, during which they can work in the black economy and take advantage of a range of public services and benefits.”

This frame formation was challenged by Mr. Henderson, who mobilized the formerly introduced frame composite of [criminalisation]. This became apparent when Clause 5, which included the provision of ‘leave by deception’, was debated in the Committee. Mr. Henderson emphasised the direct connection of “firm action on traffickers and other racketeers who attempt to break immigration rules and regulations, […] which is linked not only to illegal immigration but to gangs involved in many other criminal activities, including major scams on tax evasion and drug racketeering.” This categorisation of criminal action was furthermore pointed out by Mr. Gerrard who introduced a new composite, which was [suspicion]. Mr. Gerrard emphasised that this “Clause would make it an offence to assist someone who had not committed, and had no intention of committing a crime.” He added “I can think of no precedent for that in our legal system.” These [criminalisation] + [suspicion] elements became mobilised in a more intense manner when it came to the discussion of Clause 7, which included a ‘power of arrest and search warrants’. Mr. Grant outlined that “Clause 7 treats immigration offences as serious offences”, while Ms. Abbott referred to the “brutalisation and demonisation of illegal immigrants (which) is one of the most unfortunate by-products of excessive immigration legislation.” Ms. Abbott mobilised the [suspicion] composite in particular as “it is bound to perturbance in communities if they think that such things are going to happen to any great extent and if people who have not broken any law could have their doors knocked down in the middle of the night because of a case of mistaken identity.”

All amendments were withdrawn and all questioned Clauses stood part of the Bill after the Standing Committee sittings, which ended on the 8 February 1996. Under these premises, the Bill was handed back to the House of Commons on the 21 February 1996.

Accordingly, the Lower Chamber and its opposing groups did not engage in frame conflicts since the Standing Committee did not amend the critical Clauses of the Bill, and there was thus not much need to step back into conflicting frame mobilisations. However, the group supporting the Bill incorporated the [suspicion] composite by the opposing group into its own frame formation by extending it by [suspicion] mistrust] and thus justifying the proposed measures, while at the same time this extended composite was linked to the new element of [state powers]. This link will take a more substantial role in a later stage of the policy process. Ms. Widdecombe gave “a simple message for the immigrant community, which is

468 Ibid., col. 377.
469 Ibid., col. 426-427.
that the best policy for those applying for extensions or renewal is straight honesty with us."470 Herewith the proposed measures against deception in Clause 4 and 5 and the related measure of ‘power of arrest and search warrants’ in Clause 7 were mobilised and justified from the beginning of the debate and got no more attention in the course of the debate. As a result, amendments taking place in the course of this debate such as amendment No. 42, on page 3, line 31, which left out ‘deception’ and inserted ‘means which include deception by him’ as proposed by Mr. Fox, were rejected without further discussion. This amendment would have had a substantial effect on the ‘nature of deception’ which would have narrowed the bandwidth of deception and reduced it to the migrants themselves. This simple rejection confirmed, however, the growing dominance of the above frame formation constructed by the mobilisation of the composites [suspicion] mistrust\] and [state powers] that was forwarded by the group supporting the Bill.

Instead of engaging in fostering their own frame formation, the opposing group demobilised the rather established frame composites by the Bill’s supporters, i.e. composites such as [suspicion] mistrust. Several members of the opposing group put effort into this project, which started during the debate on the 11 December 1995 and took its course on the debate on the 21 and 22 February 1996. Khabra MP demobilised the [necessity] urgency\] as well as the [numbers] composite by stating that “immigration policies […] are already in deep water on this matter and are getting panicly and taking hasty and unwise steps to rectify their mistakes.”471 And this he linked to [numbers] and called “the figures for illegal immigrants as ‘wild-guess estimates’ and quoted Mr. Baker, the former Under-Secretary of State for the Home Department.472 Hughes MP supported these efforts by drawing attention to “wildly unjustified fears.”473 But these efforts were intensified during the debate on the 21 and 22 February. Once more Khabra MP demobilised the new [state powers] element, which had a justifying effect for the campsite of [suspicion] mistrust\] by addressing Clause 8, making it a criminal offence to employ an irregular migrant. Khabra MP stated that these “proposals assign to employers an immigration control function. […] Employers are being required to identify people who have entered illegally or overstayed or who are here lawfully, but are not entitled to do work of the sort offered”\].474 He added that “proposals will therefore effectively encourage employers to work on a presumption that all prospective employees who are immigrants are illegal unless they demonstrate otherwise”.475 Khabra MP thus underlined the shift of powers to employers. Straw MP joined Khabra MP and attacked the [suspicion] mistrust\] composite by citing The Economist that stated “the Government risks encouraging racism and undermining liberty. It deserves contempt, not votes, for proposing this nasty little Bill.”476 Similarly, Corbyn MP demobilised the [suspicion] mistrust\] composite as “it involves taking part in a hunt against individuals such as Mr. al-

471 Ibid., col. 779.
472 Ibid.
473 Ibid., col. 789.
475 Ibid., col. 458.
Masari, who will be “disgracefully thrown out of this country if the Home Secretary has his way”.\(^{477}\) Corbyn MP additionally demobilised [suspicion] mistrust] by forwarding one of their frame composites such as [liberal tradition] by pointing out “another nail in the coffin of any reputation that this country has ever had for being a haven for civil liberties or safety of people fleeing from oppression and danger”\(^{478}\). Abbott MP and Madden MP joined these efforts. Nevertheless, the Bill was clearly agreed to be read the third time and was passed to the House of Lords by 280 to 250 votes.

A conflict of frame formations took place in the House of Lords during the next month of debating. The Bill was passed to the House of Lords on the 26 February 1996 and was read on the 14 March 1996.

The Minister of State for the Home Office, Baroness Blatch, reiterated the in the Lower Chamber established frame composites of [bogus] abuse], [necessity] urgency], [numbers]. By forwarding [bogus], Baroness Blatch congruently demobilised the oppositional [genuine refugee] and [liberal tradition] frame composites. She referred to the UK’s “honourable tradition of giving refuge to those genuinely fleeing persecution. But our asylum procedures are becoming increasingly clogged up with abusive claims. Last year only 5 per cent of applicants were granted asylum”.\(^{479}\) Likewise, Baroness Blatch went on and linked the [necessity] urgency] and [numbers] frame elements to the above by claiming “the scale of abuse and the near doubling of claims since 1993 make further legislation unavoidable, and urgent” while at the same she underlined this scale by pointing at the number of “44,000”. This mobilisation was jointly supported by other members of the House such as Baroness Seccombe who pointed out that “last year, 43,965 applications were made for asylum in this country compared with 32,830 in 1994. That is an increase of 34 per cent.”\(^{480}\) Baroness Seccombe added that “Our present asylum system is wide open to abuse”\(^{481}\) and “if we were to leave the abuses of our immigration and asylum system unchecked, the numbers of asylum seekers would continue to grow at an unmanageable rate.”\(^{482}\) Likewise, Lord Vivian justified the “urgent need for this Asylum and Immigration Bill if the chronic abuse of claiming asylum under existing legislation is to cease.”\(^{483}\)

The oppositional group continued where the collegial group by the members of the House of Commons stopped, they demobilised single frame composites of the group supporting the Bill. Lord McIntosh of Haringey demobilised the [bogus] abuse] composite by referring to Baroness Blatch’s “‘abusive claims”’\(^{484}\) which he didn’t know “whether that phrase is any better than the suggestion which the Home

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\(^{477}\) Ibid., col. 550.
\(^{478}\) Ibid.
\(^{479}\) Hansard, House of Lords, 14 March 1996, col. 959.
\(^{480}\) Ibid., col. 996.
\(^{481}\) Ibid., col. 997.
\(^{482}\) Ibid., col. 998.
\(^{483}\) Ibid., col. 1016.
\(^{484}\) Ibid., col. 967.
Secretary made when Home Secretary called them all ‘bogus claims’.\(^{485}\) He added and supposed “that to a tiny extent it is less abusive than using the word ‘bogus’, but it is still not true.”\(^{486}\) In his view, “the basic reason our asylum procedures do not work and why so many people apply for asylum is not the claims are abusive or bogus but because of the delays that still exist.”\(^{487}\) The Lord Bishop of Ripon joined these demobilisation efforts and emphasised the “use of the word ‘bogus’ in reference to refugee is one we need to examine very carefully”. He therefore initiated the mobilisation of their own [genuine refugee] composite by explaining the increase of Kenyan asylum applications and quoting the United States Department of State that stated that “the Government’s human rights record in Kenya worsened in 1995. The police committed several extra judicial killings and tortured and beat detainees.”\(^{488}\) This mobilisation initiative was followed up by Baroness Williams of Crosby who supported the [criminalisation] composite - as it was introduced by MPs in the House of Commons - by fearing “that the Bill runs together those two sets of asylum seekers and refugees in ways which are, to me at least, very disturbing.”\(^{489}\) So did Lord Dubs who forwarded [human rights] and [vulnerability]. His “bottom line (Lord Dubs insinuated), is that what we need above all is a fair system for determining individual claims which ensures natural justice for the claimant; which ensures that the claimant has reasonable help by way of professional legal advice and interpreters; and a system which allows appeals in-country […].” This he linked to the [vulnerability] element by describing “people (that) have been through the most appalling and brutal experiences under some of the most oppressive regimes of the world”.

The Bill was committed to a Whole House Committee and was accordingly discussed on the 23 April 1996. Clauses were scrutinised once more and considered for amendments. More and more the dominant frame composites and the formation as a whole forwarded by the supporters of the Bill became increasingly evident.

However, the opposition had at least some minor success in forwarding amendments. This was achieved for important but not crucial Clauses that were addressing irregular migration. For instance, amendment No. 3 as an amendment to the amendment No. 1, which modified Line 11, and inserted “Nothing in this paragraph shall be construed as applying to (a) a person who can show a reasonable claim that he has been the victim of torture in a country in which he is claiming to fear persecution; or (b) a person who is claiming to fear persecution in a country which has a recently documented record of torture.”\(^{490}\) Particularly, the frame composites of [vulnerability] and [human rights] were forwarded by Lord Bishop of Liverpool for instance, who pointed to the importance of this amendment and “to take torture victims

\(^{485}\) Ibid.

\(^{486}\) Ibid.

\(^{487}\) Ibid.

\(^{488}\) Ibid., col. 977.

\(^{489}\) Ibid., col. 993.

\(^{490}\) Hansard, House of Lords, 23 April 1996, col. 1048.
out of the scope of the proposed legislation. Lord Bishop of Liverpool added that “continued practice of torture is one of the most shocking examples of the fact that evil and barbarity continue to flourish in the world. The comfortable world owes those who have suffered torture the chance to rebuild confidence and health and to find fresh opportunity to live in a peaceful and just surrounding.” Lord Dubs joined this mobilisation of these composites. The amendment was agreed upon by 143 to 124 votes.

In the view of critical amendments such as No. 10 to 13, which amended the amendment No. 1, a clear-cut conflict between [bogus] abuse] and [vulnerability] could be found, which was lastly dominated by the [bogus] abuse] composite. The amendments No. 10 to 13 were rejected.

Of special concern was amendment No. 12, since it sought to remove from the Bill the section dealing with invalid travel documents, as this could represent an obstacle for refugees to depart from their countries in the first place. This would affect many people seeking asylum who may not have appropriate documents but would be perfectly eligible to seek asylum in the UK. The amendment was moved by Baroness Williams of Crosby and supported by The Lord Bishop of Ripon since for many people “the only way to (leave their country were) to take a false passport, to make (their) way to this country, and to obtain entry into this country on that passport.” This circumstance was mobilised by [vulnerability] as forwarded by Baroness Seear who at the same time demobilised the [bogus] abuse] composites. She pointed to the

“insistence on honesty. At the point at which the immigrant steps off whatever he steps off will there be a notice in a language that he knows telling him that he has to be honest? I find it quite extraordinary that, having escaped from persecution and undertaken an appalling journey to get here, the first matter that people must think about is to be honest.”

Further to this, Baroness Seear linked this demobilisation of [bogus] abuse] to the mobilisation of [vulnerability] as she stated that

“one has escaped under very difficult circumstances; one has escaped from a country which is trying to persecute one; one is probably in a state of terror, this is one's last chance of surviving, and one is expected to arrive like a good schoolgirl and speak the truth like a good girl.”

491 Ibid., col. 1049.  
492 Ibid.  
493 Ibid., col. 1119.  
494 Ibid., col. 1122.  
495 Ibid., col. 1123.
Lord Avebury and Lord Dubs vividly supported these frame composites.

These frame formations were successfully opposed by the [bogus] abuse] composites, predominantly by Baroness Blatch and Earl Russel. Baroness Blatch mobilised [bogus] abuse] by linking it to [numbers] as well as to [necessity] urgency]. She addressed “a growing form of deception carried out by those who abuse our asylum procedures. In 1994 nearly 3,800 undocumented passengers applied for asylum on arrival at Gatwick, Heathrow and Dover. In 1995 this figure rose to over 4,800.”  He

“made clear that we expect asylum seekers to be completely honest and frank with our immigration authorities on arrival in this country. Dishonesty and concealment damages credibility. Above all, it damages their credibility. […] I am concerned also about the numbers of people who do, quite intentionally, deceive at the ports of entry to this country.”  

Lastly, “we know that there are people who exploit the system. They remove passports quite deliberately on aeroplanes or boats. We know that people put them down toilets on aircraft because it is then more difficult to find out where they come from and who they are […]”

In the following Whole House Committee sitting on the 30 April 1996, further amendments were debated, which had mostly similar effects on the outcome of decisions among the members of the House. For instance, amendment No. 18-20 amending the amendment No. 1, which would have left out lines 31 to 39 and would have effectively given more rights or legal power to asylum seekers who have been recommended for deportation or for removal from the UK. This amendment was mobilised once more by [vulnerability] and [human rights] as Lord Dubs stated that this “amendment is tabled in order to ensure that such people have the maximum safeguards in terms of being able to exercise their full rights of appeal.” This Lord Dubs linked to the [genuine refugee] composite and added that “indeed, asylum seekers may be apprehensive that if they claim asylum on arriving at Heathrow or Dover, the authorities might remove them immediately from the country. There is then the danger that they may be returned in stages to the country from which they fled and, therefore, face danger.” Baroness Williams of Crosby supported the [vulnerability] element as forwarded by Lord Dubs and highlighted once more that “refugees or asylum seekers in this country often after having undergone an extremely painful and
difficult period of time in which they have been very frightened, even to the point of being frightened of losing their lives.”

However, Baroness Gardner of Parkes and Baroness Blatch furthermore and successfully mobilised [bogus] abuse. Baroness Blatch, for instance, referred to "people who have been here illegally, sometimes for years, who are then apprehended by the immigration service and lodge an asylum claim just as they are about to be removed." This she supported by forwarding [necessity] urgency] and pointed to “claims lodged after applicant has been refused leave to enter and notified of his liability to deportation or his liability to removal as an illegal immigrant. Therefore, we are concerned because it is a growing form of abuse.”

Amendments No. 18 and 20 were withdrawn, while amendment No. 19 was clearly rejected by the Lordships as they were divided by 112 to 170.

Another crucial frame conflict took place when it came to the amendment 70 on the 2 May 1996. Amendment No. 70 intended to modify page 5, line 14, and would leave out "has reasonable grounds for suspecting" and insert "knows". This change of the wording in Clause 7 addressed the critical part of “arrests without warrant”, which provided that a Constable or Immigration Officer may arrest without warrant anyone whom he has reasonable grounds to suspect has committed an offence to which the Clause applies.

Lord McIntosh of Haringey instigated to forward the [suspicion] mistrust] composite and combined this with – from time to time apparent – [race relations] composite as it was initially established. He drew attention to an example of

“naturalised British citizens who have a perfect right to be in this country, will in many cases be identifiable to the police by the colour of their skin or accents. If the police are engaged in a search for illegal entrants or those who are in this country without leave, they will be only too easily tempted to apprehend them if they believe that something may be wrong.”

This link was taken further by Lord Avebury who underlined his concerns by having “read what others have said about the dangers of the police abusing their powers under the existing legislation in relation to

501 Ibid., col. 1490.  
502 Ibid., col. 1494.  
503 Ibid., col. 1495.  
504 Hansard, House of Lords, 2 May 1996, col. 1753.
people belonging to ethnic minorities.”505 He added instances “that arise and we know of a great many cases of black British being stopped for being illegal immigrants”.506 Lord Avebury posed the question: "Does the noble Baroness know of any case of a white British person being stopped on suspicion of being an Australian?"507 The Lord Bishop of Ripon joined these efforts and extended the array of composites by the composites [criminalisation]. He first quoted Lord Justice of Appeal, Sir Iain Glidewell as he considered Clause 7, *inter alia,* and stated that "we are seriously concerned about the draconian nature of the powers given to police and Immigration Officers under Clause 7. We consider these quite inappropriate for the type of offences indicated".508 And second, The Lord Bishop of Ripon underlined the “adoption of those greater powers must surely undermine to some extent relationships between the police and communities, not least ethnic minority communities.”509

Nevertheless, this was successfully demobilised by dominant frame composites such as [bogus] abuse] linked to [numbers] as well as [necessity] urgency], for instance by Lord Hailsham of Saint Marylebone.

Lastly, amendments 70 as well as further amendments were withdrawn. The same structure and process of a frame conflict were found when amendment 84A was discussed. Amendment 84A modified Clause 8, which had the effect that employers would not have a defence as long as the employer “knows” – this was the essence of the amendment - that the employee does not have permission to work. Nevertheless, a new composite became additionally mobilised which was - as was formerly successfully established - the [control] composite. One could found the frame formation successfully forwarded by the group supporting the Bill as follows:

[necessity] urgency]

+

[numbers]

+

[speed]

+

505 Ibid., col. 1756.
506 Ibid., col. 1757.
507 Ibid.
508 Ibid., col. 1762.
509 Ibid., col. 1764.
The Bill’s Whole House Committee stage ended on the 20 June 1996 after considering the report in the House of Lords. It proceeded with very similar patterns of frame conflicts in terms of procedure and successes. Sittings in the House followed on the 24 June in the House of Lords, and on the 28 June a motion by Lord Strathclyde was approved, and the Committee on Recommitment came together on the 1 July 1996. The third reading in the House of Lords took place on the 2 July 1996 and the Bill was passed to the House of Commons with Amendments on the 15 July 1996 accordingly where the Lords’ amendment were considered. To the same end the Bill was passed back to the House of Lords on the 22 July 1996.

Also in these two stages of amending the Bill, no new frame mobilisations were initiated, but the growing dominance of the supporters’ frame formation and its effective mobilisation of single composites became more and more apparent. In sum, all amendments that were voted upon and that were addressed by the frame formation led by composites of [bogus] abuse] and [necessity] urgency] et cetera, were rejected. 510 Such rejected amendments were for instance: 1) a new Clause 1, which extended special appeals procedures511, 2) Amendment No. 24B, which included the insertion of the following phrases:

(1A) An asylum seeker (as defined in regulations) who (a) makes a claim for asylum within three working days of the day of his arrival in the United Kingdom; and (b) is able to satisfy the Secretary of State as to the date of his arrival in the United Kingdom, shall for all purposes be treated as if he had made a claim for asylum immediately upon his arrival in the United Kingdom.512

This insertion was addressed by oppositional frame formations, however, unsuccessfully mobilised by the involved actors. For instance, Baroness Williams of Crosby forwarded the link of [vulnerability] and [human rights] by referring to “asylum seekers from countries with a long history of torture and […] in most cases they do not even speak our language”.513 The link of composites such as [liberal tradition] and [international obligations] were jointly mobilised by Lord Jakobovits who stated that “it is not worthwhile spoiling the national reputation that we have in this country for humanitarian attitudes. I fear that if the

511 Ibid., col. 821.
513 Ibid., col. 1189.
amendment is voted down, that is precisely the message we will send to the world” 514 Also Lord McIntosh of Haringey underlined this issue by referring to a letter by the representative for the United Kingdom and Ireland of the United Nations High Commission for Refugees who wrote:

“UNHCR's general concerns over the withdrawal of welfare support for certain classes of asylum seekers have already been expressed in its comments to the Social Security Advisory Committee late last year. Notwithstanding these general observations, UNHCR is of the opinion that the present amendment” 515

Lord McIntosh of Haringey further commented and underlined the importance of amendment No. 24B since the rejection of this amendment may cut

“a swathe through our international obligations on the spurious claim that those who apply after arrival in this country are less likely to be genuine refugees than those that apply at the port of entry. The effect will be that we will exclude people who are genuine refugees. Our reputation as a civilised country cannot support that.” 516

Nevertheless, the amendment No. 24B was voted against by 168 to 182 vote in the House of Lords. 517 Consequently, the Bill became Act of Parliament and received Royal Assent on the 24 July 1996.

The policy options or the proposed amendments that were decided upon addressed a more restrictive approach of asylum and immigration including several new immigration offences and extended powers for enforcement officers. The new Act evidently expanded the bandwidth of ‘illegality’ in the UK.

For decades, the Immigration Act 1971 distinguished between those categories of persons who are subject to immigration control and those who were not, i.e. between people who have or have not the ‘right to abode’. If such a status of ‘entering without leave’ was produced, immigration law has been breached according Immigration Act 1971, Section 3, which says:

“Except as otherwise provided by or under this Act, where a person is not a British Citizen (a) he shall not enter the UK unless given leave to do so in accordance with this Act.”

As amended by the Asylum and Immigration Act 1996, section 2 para. 4, a person subject to immigration control is required to obtain leave to enter the UK. Section 33 (1) of the Asylum and Immigration Act

514 Ibid., col. 1211.
515 Ibid.
516 Ibid.
517 Ibid.
1996 defines an “illegal entrant” as a person 1) unlawfully entering or seeking to enter in breach of a deportation order, or of the immigration laws, 2) entering or seeking to enter by means which include deception by another person. Section 24 created the offence of “illegal entry” and other generic offences, while section 25 made it an offence to assist illegal entry and to harbour ‘illegal’ entrants. Section 26 provided that those who fail or refuse to comply with certain administrative directions under the Act 1971 were liable to prosecution. In addition, it included a faster handling of asylum seekers and therefore a ‘fast track’ procedure was introduced (amending Asylum and Immigration Appeals Act 1993, sch. 2, para. 5) as well as a list of designated countries where “in general no serious risk of persecution” appeared to exist (sch. 2, para. 5 as amended).


The Asylum and Immigration Act 1996 was fine-tuned by two further ‘Statements of Immigration Rules for Control on Entry’ (SIRCEs). These were the SIRCE in August 1996 and in May 1998. The two SIRCEs introducing additional control tools and further committee/policy papers addressing future fields of policy actions, set new trends of policy discourses. These two further pieces of secondary legislation shall be briefly discussed as it complements the dominance of the established frame formations.

The secondary legislation of August 1996 included four additional control mechanisms complementing the Asylum and Immigration Act 1996. Paragraph 8 added further conditions that can be assigned to a ‘leave to enter’ by Immigration Officers. These further conditions were for instance:

1) A condition restricting employment or occupation in the United Kingdom; 518
2) A condition requiring the person to register with the police. 519

Furthermore, paragraph 331 added another requirement. In case “the person fails at any time to comply with a requirement to report to an Immigration Officer for examination, the Immigration Officer may direct that the person’s examination shall be treated as concluded at that time.” 520

Lastly, but importantly, the principle of deception was tightened in paragraph 340, which added the requirement of:

“A failure without reasonable explanation, to make a prompt and full disclosure of material facts, either orally or in writing, or otherwise to assist the Secretary of State in establishing the facts of the case may lead to refusal of an asylum application. This include failure to comply with a notice by the Secretary of State or an

518 SIRCE (Cm 3365), August 1996, p. 1.
519 Ibid.
520 Ibid., p. 2.
Immigration Officer requiring the applicant to report to a designated place to be fingerprinted, failure to complete as asylum questionnaire […]”.

In May 1998, further control measures were introduced, which in fact complemented the described paragraph 8 (of the above SIRCE from August 1996). A new paragraph 325 stated that “a condition requiring registration with the police should normally be imposed on any relevant foreign national who is given limited leave to enter the United Kingdom”.

These two pieces of legislation did not undergo parliament scrutiny. However, discursive conflicts, which addressed additional control mechanism, could be deduced from Committee sittings. These sittings confirmed the hegemonic power by the above established frame formations as well as further developments in advanced stages.

On the 12 May 1998, exactly one day after the SIRCE became effective, the Home Affairs Committee of the House of Commons discussed with several stakeholders the current issues of ‘bogus asylum’, ‘illegal immigration’ as well as ‘absconders’. The terminology ‘bogus’, which was highly disputed during the legislative process of the Act 1996, was simply used in the headline. The terminology ‘bogus’ has become common language at this point in time.

The minutes of evidence of this Home Affairs Committee sitting revealed a further establishment of terminology or a ‘normed’ approach of the discourse which was tuned towards enforcement. Similar frame composites and mobilisation efforts as established by the policy process of the Asylum and Immigration Act 1996, were used.

In particular, the composite of [bogus] abuse and [numbers] were recurrently used and mobilised for a rather new and additional phenomenon of ‘absconded asylum seekers’. For instance, Mr. O’Brien, the Parliamentary Under-Secretary of State, denoted that “the numbers of people who are abusing the asylum system appear to be increasing.” He likewise admitted that “we do not know where they are”, pointing here to the 17,000 ‘absconders’. Mr. Howard commented this number as ‘alarming’. Such additional phenomena and the ‘illegal entrants’ mobilised [necessity] urgency which justified Mr. O’Brien to “have spoken already about the way in which we have moved very quickly to bring in NCIS, the National Criminal Intelligence Service, to assist us with intelligence”.

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521 Ibid., p. 3.
522 SIRCE (Cm 3953), May 1998, p. 1.
524 Ibid., col. 35.
525 Ibid., col. 36.
Such new trends of enforcement and additional categories of ‘abuse’ reinforced the ‘normed’ use of ‘bogus’ and ‘abuse’ that were put forward and therefore moved to a further policy level.

The focus on enforcement gradually dominated the discourse on irregular migration and related types of migration. General practical approaches and guidelines of action increasingly moved into the centre point of discourses. The focus shifted to executive powers and policy measures were directed towards the intention to: “extend powers of Immigration Officers (in order) to enable more enforcement operations to be conducted without having to rely on a police presence, and work to make prosecution process for immigration offences more effective.”

4.5. Resume - Examined Policy Processes and Dominant Frame Composites/Formations

This chapter laid bare policy changes for the period 1973-1999 that addressed the control of irregular migration in the UK. Discourses were deconstructed and general policy backgrounds were presented for three periods. The chronological structure highlighted the time-line, in which discursive conflicts took shape. Frame composites and formations were mobilised by actors. These mobilisation efforts were presented. The most decisive discursive elements can be pointed out here before discursive developments will be further deconstructed in Chapter 6.

The selected policy processes examined between 1973-1983 were:

- Immigration Rules No. 79-82
- The Azam Case and the Immigration (Amendment) Bill [H.L.]
- Draft Directive on the Harmonisation of Laws to combat Illegal Immigration and Illegal Employment, R/2655/76
- Immigration Rules - Commanded Paper 7750
- British Nationality Act 1981

To begin with, the dominant frame composite that actors on both sides of the political spectrum mobilised in the first period was [community relations]. Second, the frame composites, which recurrently surfaced in discourses of this period were identified as the following: [control], [necessity], [overcrowded island], [EEC] sovereignty], [humane principles], [discrimination]. Particularly, the following frame formation appeared effective:

[control] necessity

The policy processes in the second period (1983-1990), were dominated by the frame composites [control], [bogus asylum] threat] and [necessity]. The policy processes under examination that were affected by these dominant frames are the following:

- Data Protection Act 1984
- Immigration Appeals Procedure Rules 1984
- Immigration (Carrier’s Liability) Act 1987

The frame composite [community relations] also became an important element in the process of constructing frame formations in this second period. This occurred particularly in the policy process of the Immigration Act 1988.

The asylum crisis strongly influenced the discursive developments of the third period (1990-1999). The Asylum and Immigration Appeals Act 1993 was characterised by the policy aim of speeding up application and appeal procedures. The following frame formation was successfully mobilised by actors:

[bogus asylum seekers]
The frame formation effectively mobilised in the process of the Asylum and Immigration Act 1996 was the following:

[necessity] urgency

The successful mobilisation of this frame formation and the recurrent incorporation of the frame composite [suspicion] mistrust resulted in the enactment of legal measures that created: 1) new immigration offences which made irregular migration by deception a criminal offence; 2) new powers for enforcements personnel. This major legislation was subsequently fine-tuned by secondary legislation in 1996 and 1998. Once more, the composites [bogus] abuse and [numbers] appeared to be effective.